

REINING IN THE BIG MEN:
THE POLITICS OF EXECUTIVE CONSTRAINTS ACROSS SUB-SAHARAN AFRICA

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Under what conditions does the rule of law, especially with regards to the constraining of executive power, become institutionalized in newly liberalized countries where presidential authority has historically been greatly unchecked? This dissertation explores this puzzle by exploring two inter-related questions: first, why would a longtime ruling party acquiesce to institutional constraints being placed on the executive in the first place, and second, once implemented, why are these institutional rules able to successfully constrain leaders in some sub-Saharan states but not others? To address both questions, my dissertation investigates variation in the adoption of, and later adherence to, executive term limit laws and other constraints on presidential power across Africa.

Based on both a medium-n quantitative analysis and extensive qualitative interview and archival data collected during eleven months of fieldwork in Uganda and Zambia, I construct an explanation that challenges previous assumptions about the development of constitutionalism in liberalizing countries. I argue that, due to the rarity of divided governments across sub-Saharan Africa, members of parliament from the ruling party ultimately choose whether or not to restrain executive tenure based on their perceptions of their party's (and, therefore, their own) electoral competitiveness. To support this argument, I develop an explanation of actor decision making that probabilistically links the relative strength of the incumbent party vis-à-vis the opposition to the outcome of term limit choice due to elite perceptions of electoral competition and its twin mechanisms of the threat of turnover and the probability of winning re-election under the banner of another party. Ruling party MPs vote to adopt and later uphold executive tenure limits in times of electoral uncertainty in order to ensure their party's ability to compete for power in the medium-term should they lose it in the short-term by removing incumbency advantage from the opposition. However, if the incumbent party is not threatened with replacement in the foreseeable future by an opposition party, ruling party MPs will not have the same incentives to favor constitutional provisions that check the executive's power and will, in fact, forgo or abolish term limits in order to increase their chances of riding the incumbent president's coattails to their own re-election.

By locating the impetus for both institutional choice and strength in the micro-foundations of elite decision-making, I demonstrate that conventional understandings of conditions that lead to the compliance with constitutional rules in the developing world, such international donor pressures and demonstration effects, vertical accountability, pact-making, and levels of democracy in general, fail to adequately explain the variation in the ability of constitutions to regulate executive tenure across Africa. In this way, I argue that formal rules are often endogenous to the political environment in which they are created. I further test this theory to see if it also holds for 1) the choice of other executive constraints by African governments and 2) executive term limit adherence in other liberalizing regions of the world, notably Latin America and the Former Soviet Republics.

BIOGRAPHICAL SKETCH

Originally from Audubon, PA, Kristin A. McKie received a B.A. in Political Science from Haverford College in Haverford, PA in 2002. She was subsequently employed by the U.S. Department of Justice before beginning her graduate studies in the Department of Government at Cornell University in Ithaca, NY in 2004. She received her M.A. in 2008 and her Ph.D. in 2011. Following her Ph.D., she served as a Post-doctoral Associate with the Program on Democracy at the MacMillan Center for International & Area Studies at Yale University during the 2011-2012 academic year.

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CHAPTER 1

PARTY COMPETITION AND LIMITS ON EXECUTIVE TENURE ACROSS SUB-SAHARAN AFRICA

Introduction

Under what conditions would a long-standing incumbent political party suddenly choose to unilaterally adopt institutional constraints on the executive's power? Furthermore, where such formal constraints are adopted, under what conditions are these constraints able to effectively restrain executive discretion going forward vs. when are they later easily abrogated? The wave of liberalization that swept across sub-Saharan Africa beginning in the early 1990s provides a laboratory in which to study such questions regarding the development of the rule of law with regards to executive power in transitioning polities. An analysis of the variation in both the adoption of and adherence to constitutional constraints on presidential power across the continent demonstrates that, in both instances, the choice of the governing party to constrain the national offices they control is conditioned by the degree to which their power is rising or declining vis-à-vis opposition forces. Government officials who perceive that their party's power is on par with or on the decline relative to other parties, leading to a credible threat of replacement in the next election, will choose to moderate their own behavior and favor the existence of formal institutions of constraint, whereas officials who sense their party's power is increasing relative to a weak opposition do not face the same incentives to limit the executive's power. Thus, the perceptions of incumbent party politicians regarding the current balance of power within the party system in their polity is the key to understanding both institutional choice and endurance and, by extension, the development of constitutionalism in a polity.

However, political parties are not unitary actors with singular perceptions. Thus, it is necessary to ask *whose* perception within the party matters when it comes to the choice of institutions of executive constraint. Evidence from instances of both the adoption and contravention of constitutional rules limiting executive discretion demonstrate that the incumbent president and his cabinet are generally the ones to propose constitutional amendments that alter the status of legal constraints on the office of the executive. Yet, by and large, when executive constraints are added to, upheld or eliminated from constitutional law it is through an act of Parliament, which in sub-Saharan Africa is usually dominated by members from the ruling party. Thus, if members of parliament from the ruling party agree with the president's calculations regarding their party's strength and what institutions should be favored in order to best benefit the party, they will vote for the president's choice of institutional alternation. However, if members of parliament from the party in power disagree with the president and cabinet's sense of their party's power relative to opposition forces, they will not approve of the changes to executive power that the president seeks, and the amendment will fail. In this way, although the president and cabinet are players in the institutional choice process, ultimate authority rests with the parliament, even on matters pertaining to the shape of executive power.

Still, these contingent institutional choice calculations are not made within a vacuum. Many unique characteristics of sub-Saharan African party systems influence all actors' choice calculations, both with regards to the institutional arrangement they prefer (outcome preference) and with regards to whom he or she wants to appear to align with in the decision (action preference). Some notable structural features of many African party systems that interact with relative degrees of party competition to shape actors' preferences include the high rate of unified governments (where both the presidency and the parliament are controlled by the same party),

the mixed electoral fortunes of designated presidential successors, the non-programmatic, non-ideological nature of most parties across the continent and the fact that patronage is the main organizational logic underpinning most African political parties. Therefore, in the end, informal patterns of party competition and the agency of members of parliament during votes on constitutional amendments interact in a dynamic way to shape the degree to which executives are constrained across sub-Saharan Africa by formal institutional limits on their power. In this way, I argue that formal rules are often endogenous to the political environment in which they are created.

Yet, it is important to disaggregate the political environment to pinpoint exactly what aspects of the political setting shape specific institutional arrangements. One of the most interesting and highly surprising findings from this project is that the overall level of democracy in a country is not a significant indicator of adherence to constitutionally-mandated executive constraints. This is likely due to the fact that so many diverse factors comprise measures of “democracy” that the messiness of the concept obscures the nature of the relationship between specific facets of democracy and institutional outcomes. As Coppedge et al argue, democracy is a multi-dimensional concept that comprises logically distinct (and sometimes conflicting) principles, including electoral, liberal, majoritarian, participatory, deliberative and egalitarian conceptions, each with their own unique indicators. Since “there is a good deal of divergence across these six conceptions”¹ both within individual states and among the world’s polities, disaggregating the concept of democracy into its various components in order to identify precisely which aspect of democratic governance is impacting outcomes of interest becomes

¹ Coppedge, Michael et al. 2011. “Conceptualizing and Measuring Democracy: A New Approach,” *Perspectives on Politics*, Vol 9,2: 255.

necessary when the goal is to “chart variation in political institutions through time and space.”²

The finding that one aspect of democracy- namely competition within the party system- rather than the level of democracy as a whole best explains variation in the adoption of and adherence to constraints on executive power underscores the analytical leverage that is attained when democracy is disaggregated in political research.

Instituting Constraint: Executive Term Limits

Following the rapid de-legitimization of authoritarian rule in the early to mid-1990s and the subsequent adoption of new liberal democratic constitutions in most states across the region, many observers hoped for a new dawn for constitutionalism in sub-Saharan Africa. In the former neo-patrimonial regimes, public decisions were based on the whims of personalistic presidents to such an extent that “transitions from neopatrimonial regimes [were] concerned fundamentally with whether rules even mattered.”³ Thus, rather than being a tool that dictatorial presidents used to legitimate repressive tactics, as the original independence constitutions of the 1950s and 1960s had become, proponents of democracy both domestically and abroad were optimistic that these new democratic constitutions would institute a genuine rule of law that could constrain leaders’ actions through adherence to regulations that were mutually-beneficial to all political organizations. Nearly two decades later, the jury is still out regarding the degree to which constitutional norms and principles are enforced and binding on political leaders, with some scholars arguing that the rule of law is becoming a reality in Africa⁴ while others maintain

² *Ibid*, p. 255

³ Bratton, Michael and Nicolas van de Walle. 1997. *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*. Cambridge: Cambridge University Press. p. 88

⁴ See, for example, Posner Daniel, and Daniel J. Young. 2007. “The Institutionalization of Political Power in Africa.” *Journal of Democracy*, Vol. 18, 3: 126-140.

that the old practice of “constitutions without constitutionalism”⁵ still holds.⁶ The truth seems to lie somewhere in the middle, leading to a puzzle regarding why constitutions seem to be effective arbiters of the political sphere in some sub-Saharan countries but not others.

In order to undertake a meaningful, systematic comparison of the nature and strength of constitutionalism across sub-Saharan Africa, it is necessary to identify a specific constitutional provision that has been that has a) proved to be controversial in a relatively large number of African countries, b) displayed variation on the outcomes of the challenges, and c) about which it was possible to obtain complete data. Based on these criteria, challenges to the two-term limit on executive power are the most conducive category of constitutional tests for a systematic analysis. The topic of executive tenure has long been a contentious one in Africa, and the widespread adoption of term limits in the 1990s, coupled with the recent constitutional struggles over the issue in a number of countries, make the matter suitable for our investigation into the choice and strength of constitutional provisions across the continent. Focusing on just one single institution allows for the an analysis that is able to trace the evolution of the institution over time in order to examine whether similar or different dynamics drive variation in adoption in time period one and adherence in time period two. Therefore, constitutional struggles over term limits will be the primary category of cases examined here, although in the Conclusion chapter, the argument developed to explain variation in adoption to and adherence of the two-term limit will be tested against other types of constitutional transgressions by executives across the continent such as presidential interference in judicial proceedings in order to gauge its ability to explain the cause of constitutional strength more generally.

⁵ This term was coined in Okoth-Ogendo, H.W.O. 1993. “Constitutions without Constitutionalism: Reflections on an African Political Paradox,” in *Constitutionalism & Democracy: Transitions in the Contemporary World*, Douglas Greenberg et al. eds. New York: Oxford University Press. pp. 65-82.

⁶ See for example Hyden, Goran. 2006. *African Politics in Comparative Perspective*. New York: Cambridge University Press

Executive term limits were not widely featured in sub-Saharan African constitutions until the early 1990s. As the large majority of independence constitutions drafted in the 1950s and 1960s provided for either a parliamentary or semi-presidential system of government (mirroring the political systems of their former British or French colonial powers), limits to the executive's tenure were not formally proscribed.⁷ Similarly, when many African countries scrapped their independence constitutions in favor of single-party constitutions in the 1970s, the institution of executive term limits were not chosen for inclusion in the new constitutional order despite the fact that the system of government was changed to a presidential system in most countries. This resulted in "life-presidencies" for many leaders who clung to power in excess of thirty years in some countries. In fact, since independence, African presidents have, as a group, remained in power twice as long as their Asian or Latin American counterparts.⁸

However, this trend changed dramatically in the 1990s when, during the wave of liberalization that swept across the continent, constitutional amendments put in place many checks and balances on executive power including safeguarding parliament from being dissolved by the president, giving parliament recourse over presidential veto power, subjecting the executive and legislature to judicial review and setting limits on executive terms (usually two terms of five years each).⁹ In fact, by 1994, of the thirty-seven national constitutions that underwent liberalizing amendments, executive term limits were featured in all but four.¹⁰ Interestingly, apart from a few Francophone countries in West Africa, where term limits were added to the constitution by a National Conference that had declared itself sovereign, by and large term limits and other

⁷ France did not adopt a limit on executive tenure in its semi-presidential system until 2008.

⁸ Bienen, Henry S. and Nicholas van de Walle. 1991. *Of Time and Power: Leadership Duration in the Modern World*. Stanford: Stanford University Press.

⁹ Barkan, J.; Adamolekun, L., and Zhou, Y. 2004. "Emerging Legislatures: Institutions of Horizontal Accountability" in *Building State Capacity in Africa: New Approaches, Emerging Lessons*, B. Levy and S. Kpundeh (eds), Washington, DC: World Bank,

¹⁰ Bratton and van de Walle, 1997, p. 113

executive constraints were adopted by the sitting governments of incumbent presidents, some of who had been at the helm of their countries for over twenty years before the advent of multi-party elections. This raises the question of why a sitting president would actively seek to restrain his own power through the application of term limits to his office. Chapter 3 explores why executive term limits were adopted by these longstanding presidents and their parties in the majority of African countries but not in the handful of holdouts among sub-Saharan nations.

As the first cohort of post-liberalization presidents came to the end of their two-term limit beginning in the late 1990s, the strength of this constitutional provision began to be put to the test. To date, twenty-six African executives from twenty-four countries have reached the end of their constitutionally mandated tenure. Fourteen of those have campaigned to have term limits abolished so they could run indefinitely. Eleven have been successful in achieving this goal. Burkina Faso was the first country to abolish term limits for President Compaore in 1997 (although they were eventually reinstated in 2000). Following Burkina Faso's lead, Presidents Nujoma of Namibia, Diouf of Senegal, Conte of Guinea, the late Eyadema of Togo, Derby of Chad, the late Bongo of Gabon, Museveni of Uganda, Biya of Cameroon, and Tandja of Niger¹¹ have all spearheaded successful movements to constitutionally abolish executive term limits. Most recently, Guelleh of Djibouti joined the ranks as MPs in the tiny country voted overwhelmingly to lift term limits in April of 2010, paving the way for Guelleh to run for a third term in 2011.

However, not all presidents who have attempted maneuverings to circumvent term limits have been successful. In 2006 Nigerian President Obasanjo was forced to suspend his bid for a third re-election when it became evident that he did not have the votes in parliament for such an

¹¹This is the only case of term limits being lifted through a means other than a parliamentary vote, as they were lifted after a questionable referendum following Tandja's dissolution of parliament following that body's refusal to abolish term limits. However, Tandja's third term was short lived- he was ousted in a military coup in February of 2010.

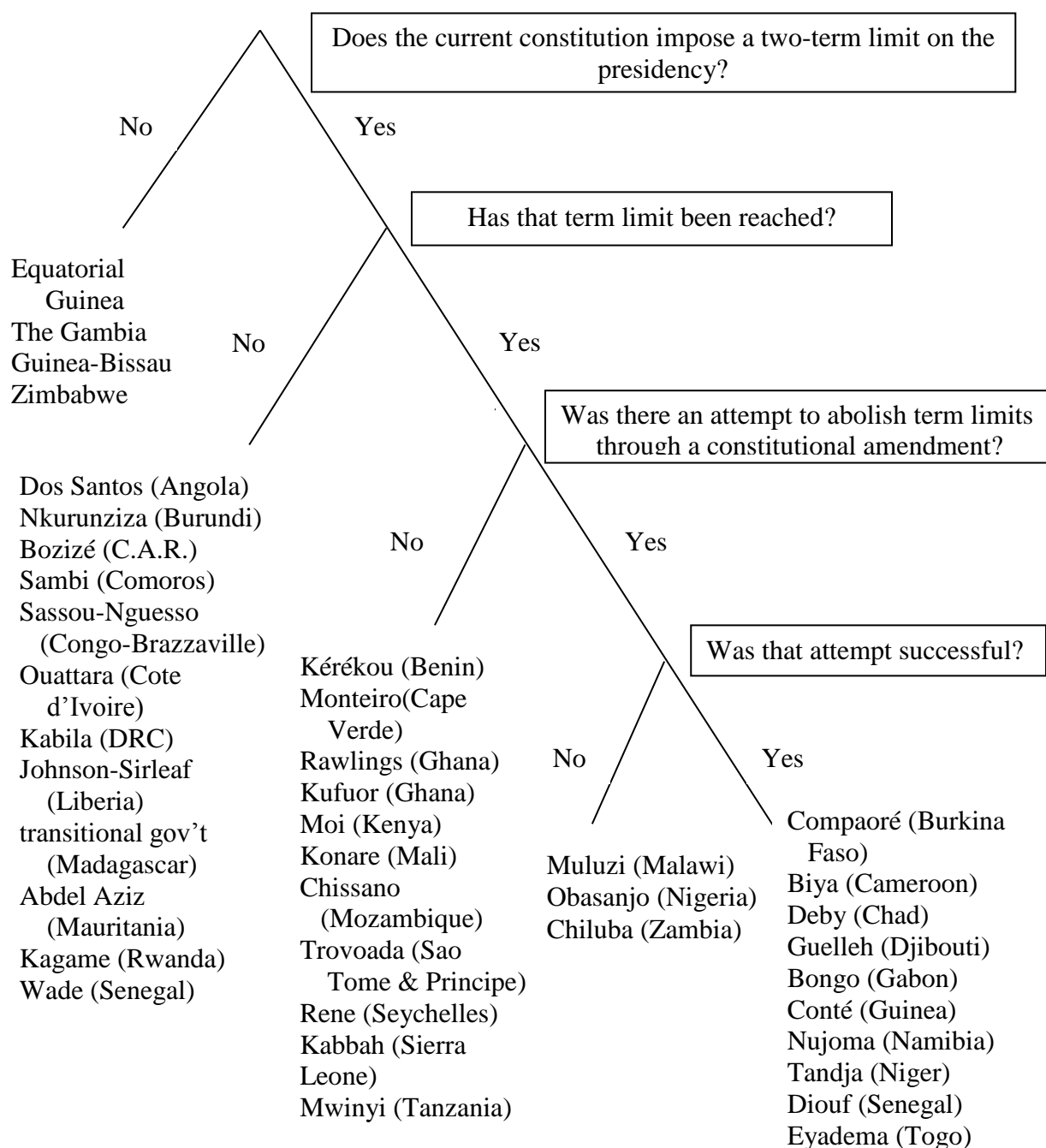
amendment, a story which echoes the similar failed attempts at third terms by Muluzi of Malawi and Chiluba in Zambia.

Furthermore, there have so far been twelve African leaders who have bucked this trend all together and have quietly stepped down after two terms in compliance with their national constitutions, including Conare of Mali, Kerekou of Benin, both Rawlings and Kufuor of Ghana, Moi of Kenya, Trovada of Sao Tome & Principe, Mwinyi and Mkapa of Tanzania, Monteiro of Cape Verde, Rene of Seychelles, Chissano of Mozambique, and Kabbah of Sierra Leone. Figure 1.1 illustrates the arrangement of these categories.

Some might argue that an executive who pushes for term limits to be abolished through a parliamentary vote or a national referendum is not acting in discord with the Constitution but merely amending the document through the appropriate channels. While it is indeed heartening that modern-day executives are increasingly choosing to work through formal channels to push for term limit extensions¹² (unlike the previous generation of “presidents-for-life” who simply coronated themselves by decree), the fact remains that these amendments are not being put forward because a gradual shift in national values or policy has necessitated new constitutional language. Rather, these amendments are proposed solely to further extend the privilege of just one individual over the rest of the population: the incumbent president. Other types of legal changes that directly benefit those who vote on them (i.e. pay raises for legislators) are drafted in such a way that they come into effect *after* the next election, which lessens the inherent conflict of interest at play. However, none of the African governments that have lifted term limits have included this delayed enactment mechanism, making it clear that the sole purpose of amending the constitution in this way is to extend the time in power of second-term presidents who are

¹² See Posner and Young (2007) on the increase in formal means of exiting office by African executives.

Figure 1.1: The Status of Executive Term Limit Laws across Sub-Saharan Africa¹³



¹³ The Figure is adapted from Posner and Young (2007). The author has changed some of Posner and Young's categorizations in light of new developments. Sub-Saharan African countries not included in this sample include parliamentary regimes (South Africa, Botswana, Ethiopia, Lesotho and Mauritius), monarchies (Swaziland), failed states (Somalia), states with rotating presidencies (Comoros) and states where there has never been a national election (Eritrea).

reaching the end of their tenure. As such, they should be viewed, for all intents and purposes, contraventions of constitutional rules regulating executive power.

Developing a Rule of Law: Explaining Institutional Choice, Enforcement and Change

The development of an effective democratic rule of law is a dynamic process that spans both a short and discreet adoption phase followed by a longer and continuous execution/enforcement phase. How constraining rules come to be chosen and implemented by governments, why and how these rules are subsequently enforced or abrogated and the question of whether the same variables drive both the adoption of and commitment to formal rules (path-dependent explanations) or whether different mechanisms are at play in each phase (punctuated equilibrium arguments) are all key concerns in the literature on constitutionalism. Recent advances within political science to the study of institutional origin, enforcement and change are derived from the various strands within the new institutionalism approach.¹⁴ Rational choice institutionalism views institutional choice and change as driven by actors who design institutions through bargaining strategies formulated within the immediate context based on their own preferences regarding both short- and long-term outcomes they expect the institutions to generate. Alternatively, historical institutionalists contend that forces such as structure and history shape institutional choice and change on a longer time horizon due to their effect on individuals' conception of constraints imposed on them by underlying power asymmetries and other outcomes of evolutionary processes.¹⁵ Analyzing these arguments against the various experiences of executive term limit choice and adherence across sub-Saharan Africa provides a

¹⁴ Hall, Peter A. and Rosemary C.R. Taylor. 1996. "Political Science and the Three New Institutionalisms" in *Political Studies* 44,5:936-957.

¹⁵ Pauline Luong, 2000. "After the Break-up: Institutional Design in Transitional States," *Comparative Political Studies* 33,5: 570.

starting ground to construct an explanation for the variation in executive constraint adoption and enforcement across the continent. Ultimately I argue that an explanation that lies at the convergence of these two institutional approaches, one which uses the broader understanding of interests and constraints in the African context highlighted by historical institutionalism to inform the strategic decisions on institutional design made by rational members of parliament, can best account for the variation in both term limit adoption and adherence across sub-Saharan Africa.

How have other scholars approached the study of the institutional origin, enforcement and change in constraints on executive power? How far do they go in explaining the empirical patterns of term limit adoption and abrogation visible across sub-Saharan Africa since the early 1990s and where do they fall short? While more detailed analyses of alternative explanations will be undertaken in both Chapter 3 (the analysis of term limit adoption) and Chapter 4 (the analysis of term limit enforcement/contravention), a survey of previous work that aims to explain the factors driving institutional choice and institutional enforcement/change both generally and with regards to constraints to executive power more specifically is presented below.

Institutional Choice: Whither Executive Term Limits

The question of why African presidents imposed (or did not impose in a few cases) term limits on themselves is a topic which has been largely overlooked by scholars of African politics. Most studies of democratization in Africa during the third wave of the 1990s have simply studied the adoption of the democratic “package” by sub-Saharan nations. The legalization of opposition parties, the holding of competitive elections, new or enhanced freedom of the press and other

constitutional reforms¹⁶ are often all lumped together along with executive term limits in an “all good things go together” mentality when scholars seek to explain the political liberalization that occurred in 40 out of 47 sub-Saharan nations during this time. The rationale for the adoption of each of these reforms as particular institutions unto themselves, however, is rarely examined.

Furthermore, the explanations as to why transitions to democracy occurred simultaneously in numerous African nations is often chalked up to broad notions of international diffusion (i.e. the political openings in Eastern Europe touched off a wave of democratization around the world) coupled with improvements in communications,¹⁷ explanations which do little to shed light on the adoption of term limits specifically. Even studies that look to domestic dynamics such as the nature of the previous authoritarian regime (especially how competition was structured) and level of mass protests in order to explain variation in African transitions¹⁸ do not provide an understanding of why specific constellations of institutions meant to check the power of the state were adopted in each country. Donor conditionality is another factor that has been forwarded to explain the erection of formal institutions by liberalizing countries. However, donor documents from this period show that patterns of aid distribution were not yet tied to democratic governance in the early 1990s when a majority of African countries adopted executive term limits.¹⁹

Moving beyond Africa, the arguments regarding the adoption of liberal constitutions across third wave democracies often rest on the idea that the specific content of constitutions is determined by the nature of a pact-making process between soft-liners in both the incumbent

¹⁶ van de Walle, Nicolas. 2002. “Africa’s Range of Regimes: Elections without Democracy” in *Journal of Democracy* Vol. 13: 66

¹⁷ Sorenson, George. 1993 *Democracy and Democratization: Processes and Prospects in a Changing World*. Boulder, CO: Westview Press. p. 36

¹⁸ See Bratton and van de Walle, 1997

¹⁹ Though donor pressure could play a factor in “late adopters” such as Chad (1996), Cameroon (1996) and Cote D’Ivoire (2000).

authoritarian government and among the opposition forces.²⁰ Based largely on case studies of successful democratic transitions and periods of constitutional revision in Latin American during the third wave era, this explanation holds that political elites enter into pact-making when neither side is strong enough to unilaterally impose their preferred political arrangement. Thus, in order to “restrain their counterparts and mitigate their own political insecurity”²¹ political elites enter into direct bargaining arrangements with each other that result in a constitutional arrangement that reflects the relative power of each side at the time of the bargaining process.

Yet, a lack of a pact-making process in most liberalizing African countries preclude this line of argumentation from proving satisfactory in the sub-Saharan context. In the majority of African countries, constitutional reform was undertaken *unilaterally* by the incumbent parties without explicit bargaining with emerging opposition forces. Even in countries like Zambia where there was some dialogue between the incumbent UNIP party and the nascent MMD organization regarding issues such as the procedure for multi-party elections and the re-legalization of opposition parties, a look at the MMD manifesto and other documents from the 1990-1991 period show that the MMD did not have an explicit stance on the issue of executive term limits and did not push UNIP to incorporate such limits into the national constitution. This suggests that it may not be the *process of bargaining* that is the key factor in instances where pacts are viewed as driving constitutional design; rather, the *balance of power between the actors* participating in the negotiations is what really determines the shape of the resulting institution. Thus, in the case of term limit adoption, enforcement or contravention in sub-Saharan Africa, incumbent parties can be viewed as simply “skipping” the negotiation phase and

²⁰ See O'Donnell and Schmitter 1986; Linz 1978; Karl 1990; Karl and Schmitter 1991

²¹ Corrales, Javier. 2009. “Power Asymmetries and the Origin of Constitutions: Latin America, 1987-2009” Paper delivered at the American Political Science Association Annual Meeting, Toronto Ontario, September 3-6, 2009. pp. 5-6

unilaterally enacting the outcome that reflects the underlying power dynamics within the party system.

Therefore, it is necessary to develop an explanation for the widespread adoption of executive constraints in sub-Saharan Africa that does not rest on the dynamics of an overt bargaining process between soft-liners on both sides, but that is based on the relative power of the political forces within the country. As the forthcoming analysis will show, low power asymmetry between the incumbent and the opposition can lead the incumbent party to adopt executive constraints even without a formal bargain with the opposition, making the actual pact-making process epiphenomenal to the drive for constitutional amendment. Accordingly, this project will follow recent studies by Colmer²² and Hyde²³ that examine the micro-foundations of the strategic and instrumental motivations behind incumbent parties' adoption of, or acquiescence to, formal democratic institutions that are designed to constrain executive power.

Institutional Enforcement: The Effectiveness of Executive Term Limits

Constitutional clauses in and of themselves are merely ink on parchment and, as Carey rightly contends, "being written down is neither necessary nor sufficient for institutions to act as effective constraints on behavior."²⁴ Early research on advanced industrial democracies during the revival of interest in institutions during the 1990s "frequently assumed a tight coupling between formal rules and actor behavior,"²⁵ but more recent research on third wave democracies in particular have highlighted the frequent disconnect between the two. Therefore, Levitsky and Murillo argue that, once adopted, in order for constitutional rules to become meaningful norms

²² Colomer, Josep. 1995. "Strategies and Outcomes in Eastern Europe," *Journal of Democracy*. Vol. 6, 2: 74-85

²³ Hyde, Susan. 2010. "Catch Us if You Can: International Election Monitoring and Norm Development" Unpublished paper. Available at: <http://hyde.research.yale.edu/Catch%20Us%20if%20You%20Can.pdf>

²⁴ Carey, John. 2000. "Parchement, Equilibria and Institutions" *Comparative Political Studies*. Vol. 33,6/7: 736

²⁵ Levitsky, Steven and Maria Victoria Murillo. 2009. "Variation in Institutional Strength" in *The Annual Review of Political Science*, Vol. 12: 125

that routinely regulate behavior (in other words, for constitutionalism to take root), they must be both enduring and enforceable.²⁶ Achieving these two conditions requires the development of some constellation of incentives within the given political environment that cause political elites to regularly and repeatedly align their conduct with constitutionally mandated limits on their actions. What are these incentives, when and how do they arise in some African cases and when and why are they absent in others?

The question as to how and why constitutions are able to effectively constrain human behavior has been a major topic among new institutionalists, especially those who use rational choice or game theoretic models to argue that constitutionalism is, at its base, an equilibrium in a coordination game between actors. Among scholars who analyze the establishment of constitutionalism in first, second and early third wave democracies, one popular explanation as to why constitutions become equilibrium to be followed by all political actors is that democratic constitutions are “self-enforcing.” This theory maintains that constitutions are such because constitutional rules provide a point of coordination for citizens²⁷ or administrators (i.e. bureaucracies, armies)²⁸ to protest constitutional transgressions by their leaders.²⁹ Accordingly, extending this logic implies that constitutionalism breaks down if citizens/administrators are unable to coordinate to check the behavior of elite political actors. Yet, this explanation is problematic in the context of African term limit debates for many reasons. First, the ability of citizens or administrators to check the executive in sub-Saharan Africa often depends on more than a coordination game around an idea. Factors such as the degree to which

²⁶ Levitsky, and Murillo, p. 116

²⁷ Barry Weingast. 1997. “The Political Foundations of Democracy and the Rule of Law,” *American Political Science Review* 91:245-63

²⁸ Gonzalez de Lara, Yadira, Avner Greif, and Saumitra Jha. 2008. “The Administrative Foundations of Self-Enforcing Constitutions.” *American Economic Review*, 98,2: 105–09.

²⁹ Weingast, Barry R. 2005. “Self-Enforcing Constitutions,” *Journal of Economic Perspectives*. Vol. 19,3: 105-106

the incumbent can use laws or law enforcement personnel to quell protests, the extent to which citizens view certain actions as constitutional transgressions and/or as going against their will, the viability of alternative governing options and the cultural acceptance of protest against an authority figure among other issues severely complicates the story of constitutional rules being enforced primarily through citizen checks on executive behavior in sub-Saharan Africa. This explanation also seems to assume the government always behaves as a unified actor and leaves out any notion of horizontal accountability within the government itself acting as an effective check on constitutional transgressions by one of its branches. In fact, evidence from the African countries under study here demonstrates that coordination among members of parliament, not the society at large, is the important nexus of the game in challenges to the executive two-term limit.

Further, this hypothesis is difficult to test empirically due to the “dog that didn’t bark” problem. The hypothesis that constitutional provisions are enforced where citizens would strongly object to their abrogation means that we should observe a higher level of protest in countries such as Ghana and Mozambique where term limits were upheld and lower levels of protest in Uganda, Burkina Faso and other countries where governments lifted term limits. However, since there was no attempt to lift term limits in the former group, there was no need for citizen protest, whereas there were a number of incidents of protest reported in the second group of countries where presidents attempted to alter the constitution. Without knowing the comparative level of protest that would have occurred in Ghana, Mozambique and other countries if term limits had been overtly challenged, it is difficult to assert that the variation in citizen coordination led to the different outcomes of term limit perpetuation across the continent.

Finally, most rational choice accounts seem to imply that actors have a clear preferential priority that they are ever-ready to act upon. However, in reality, actors rarely have just one preference in any given choice situation. For example, based on the logic of ensuring that the legislature remains strong vis-à-vis the other branches of government, MPs should prefer to limit the executive's power so as to not create a delegative democracy or a similar hyper-presidential system. Actors may also prefer to uphold democratic institutions due to a personal commitment to democracy. These preferences, which would both lead MPs in every African country to vote to retain term limits, are clearly valid preferences. Thus, the fact that in many country term limits were lifted creates a two-fold puzzle: first, what preference is really driving term limit adherence across sub-Saharan Africa and secondly, what historical processes have come to privilege that preference over other legitimate preferences MPs could enact in the term limit choice situation?

The argument presented in the next section will posit that differences and changes in the relative strength of incumbent parties and their opposition challenges, not a static equilibrium, is best able to explain variation in term limit adherence across the continent because this balance of power within the party system not only shapes actors preferences but at the same time, is itself shaped by historical structures and practices (such as patronage networks and party mobilization strategies).

The Argument: Party Strength, Actor Preferences and Executive Constraints

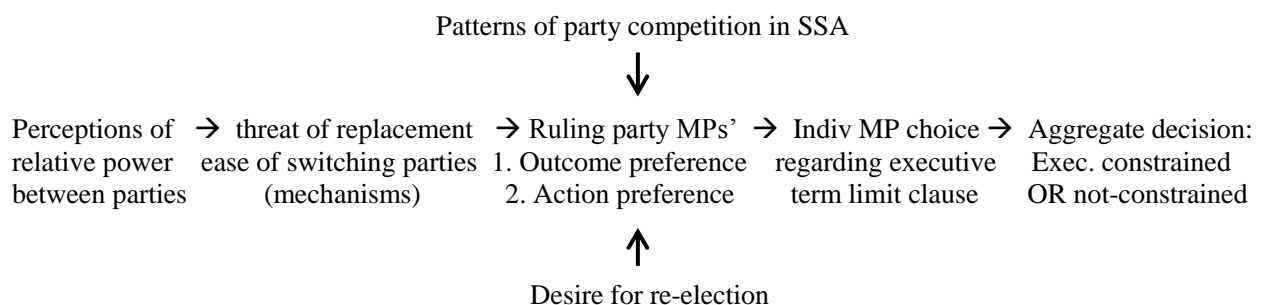
Evidence regarding the status of executive term limits across all relevant sub-Saharan African countries demonstrates that variation in the adoption/non-adoption of executive term limits in time period one and the adherence to/ contravention of these limits in time period two can *both* be explained by the *degree and direction of change in the strength of the incumbent*

party relative to opposition forces in the time period prior to constitutional change. The perceptions of ruling party members regarding their party's changing strength vis-à-vis their closest rival shapes their collective decision-making to favor or not favor a limited executive due to the threat of replacement facing the party. The threat of replacement refers to the probability that the incumbent party will win re-election in future electoral contests. In African countries that transitioned from single-party states to multi-party dispensations in the early 1990s, uncertainty over the strength of the incumbent party relative to nascent democratic opponents in this time of political upheaval prompted many presidents and their cabinets to propose and parliaments to approve the adoption of executive term limits along with a host of other democratic checks and balances in order to ensure their ability to compete for power in the medium-term should they lose it in the short-term (the first multi-party election). The group of sub-Saharan countries in which such limits on executive power were not adopted are those in which the incumbent party did not sense a credible threat of replacement by nascent opposition forces. Thus, institutional choice in this context was driven by actor calculations of the level of competition within the electoral arena.

Similarly, actor perceptions regarding the threat of replacement in the political sphere also shapes term limit enforcement in time period two. In countries where the balance of power between parties remains relatively equal or the incumbent party has lost power relative to an opposition party in the years following the initial adoption of executive term limits, electoral uncertainty remains high, creating both a high threat of replacement and opening the door for party switching (due to the non-programmatic nature of parties) and thus the incentives for retaining executive term limits persist. However in polities where, following the reintroduction of multiparty elections, the winning party enjoys a substantial increase in power relative to all

other parties over the next ten years, the incentive to retain term limits disappears since electoral uncertainty becomes very low, making the threat of replacement negligible and greatly hindering the option for incumbent party politicians to switch parties. In these cases, term limits are removed from constitutions through parliamentary votes in time period two, often by the same parties who adopted the executive tenure limit in the first place.

In both time periods, the balance of power between parties, the direction of this power shift, as well as the unique characteristics of African party systems (such as the extreme rarity of divided governments and the non-programmatic nature of most African parties) influences how members of the ruling party, who are primarily concerned with their own political survival, arrive at their choice on executive constraints by informing both their outcome preference (whether they prefer term limits to exist or not exist following the Parliamentary vote) and their action preference (which side they want to be seen as supporting in the debate). This argument, which will be expanded upon in the following section and fully fleshed out in Chapter 2, can be summarized as follows:



Independent Variable: Competitiveness of the Party System

The main variable that distinguishes African countries that develop meaningful constraints on executive tenure from those in which presidents are able to circumvent the two-

term limit is the *level of competition* within the party system. The level of competitiveness is operationalized by considering the degree and direction of change in the incumbent party's power relative to opposition parties over time. In this context, "power" is taken to mean the ability to attract voter support in elections and influence debates on political issues in non-election years. Changes in the relative balance of power between an incumbent and an opposition party can occur if the opposition party gains additional popular support, if the incumbent party loses support, or if both occur simultaneously. However, it is the relative balance of power between the incumbent party and the opposition *at the time of the parliamentary vote on the term limit questions* (or, if no formal vote is taken, at the time of the election in which the incumbent is barred from standing) that is of concern in this analysis.

One of the key insights of this argument is that it pays attention to the changes in power of *both* the ruling party and the opposition over time, leading to an analysis of how *relative* party strength impacts the degree to which constitutions are able to constrain executive behavior. Other studies that have sought to explore disparities in executive or ruling party discretion have tended to rely solely on either different levels of ruling party cohesion³⁰ or divergent levels of robust opposition groups in the polity³¹ to explain cross-national variation without considering the status of the other side simultaneously. In newly liberalized countries where party systems are not yet institutionalized, examining changes in the electoral strength of both the incumbent and the opposition is important because an increase in the strength of one does not necessarily mean a decrease in electoral strength of the other, as in Mozambique where *both* the incumbent FRELIMO and the main opposition RENAMO party actually increased their vote shares between

³⁰ VonDoepp, Peter. 2005. "Party Cohesion and Fractionalization in New African Democracies: Lessons from Struggles Over Third-Term Amendments." *Studies in Comparative International Development* 40,3: 65-87

³¹ Grzymala-Busse, Anna. 2007. *Party Competition and State Exploitation in Post-Communist Democracies*. Cambridge: Cambridge University Press.

the first and second elections. Therefore, an observer who only noted the increase in strength of opposition might erroneously conclude that the incumbent party was losing influence, rather than seeing that, in reality, the relative strength of the two parties with reference to each other actually remained the same over this time period as both increased their vote share in parliament by roughly the same proportion.

While establishing an exact numerical measure of party power at a given point in time is difficult, many indicators can be used in order to assess trends in the degree and direction of a party's level of power compared to other parties. Perhaps the most easily identified and quantified measure of increases or decreases in relative party strength is the percentage of votes each party received in legislative election. In both Chapter 3 and Chapter 4, the different yet related measures developed to capture party strength based on trends in electoral data for time periods one and two will be explained. However, a measure based purely on such data is limited because election results may obscure the true balance of power due to opposition party boycotts or electoral fraud in some states or districts.³² Thus, while this indicator will be used as a first cut in exploring the correlation between relative party strength and executive term limit outcomes in the large-n analyses, a host of other, more country-specific indicators (such as public opinion data regarding the extent to which citizens trust the incumbent and opposition parties,³³ the presence/absence of corruption scandals within both parties,³⁴ and the degree to which each party possesses national organizational capacity³⁵) will be used to more robustly

³² Though, as will be argued in Chapter 3, the extent of the incumbent party's ability to rig elections is in itself an indication of the ruling party's strength. Parties that have the resources, manpower and coercive power to successfully rig an election is inherently stronger than a party that lacks such power. Nonetheless, a rigged election does obscure the *true* balance of power between the incumbent and opposition parties to some extent.

³³ Source: www.afrobarometer.org

³⁴ Source: content analysis of major national African newspapers

³⁵ Following the idea to look at party organization developed in Levitsky, Steven, and Lucan Way. 2010. *Competitive Authoritarianism: Hybrid Regimes after the Cold War*. New York: Cambridge University Press.

assess the strength of parties during both time periods in the case studies of Zambia, Cote d'Ivoire and Uganda.

It should be noted that the idea of relative party strength employed here is different from the concept of political system institutionalization, which has been the focus of a number of recent studies of African party competition.³⁶ An institutionalized party system implies a situation in which competition becomes regularized between enduring parties with stable roots in society³⁷ such that the same group of recognized parties contests elections over time. The notion of party strength here is different from institutionalization because it is not concerned with whether the same opposition party continually challenges the incumbent party or whether a new opposition party emerges every election cycle to contest elections. What matters in the present analysis is whether in each election there is at least one opposition force that poses a credible threat of replacement (i.e. chance of capturing power) to the ruling party. Only when there is a credible threat of replacement will executive term limit be adopted and/or upheld by the incumbent government.

Mechanisms: Actor Preferences and Choice

How exactly does variation in the power of the incumbent party relative to opposition parties probabilistically influence the nature of executive constraints in African polities? In order to link this variable to the divergent outcomes observed across sub-Saharan countries, it is necessary to uncover the causal mechanisms at play, which are best parsed out through an examination of the micro-foundations of the decision making process that actors engage in

³⁶ Kuenzi, Michelle and Gina Lambright. 2001. "Party System Institutionalization in 30 African Countries," *Party Politics*, Vol. 7,4: 437-468.

³⁷ Mainwaring, Scott and Timothy R. Scully. 1995. "Introduction: Party Systems in Latin America", in Mainwaring and Scully (Eds.) *Building Democratic Institutions: Party Systems in Latin America*, Stanford: Stanford University Press. p. 1.

surrounding the term limit question. As will be demonstrated in the case study chapters (Chapters 3, 5 and 6), due to informal practices within African party systems (the non-programmatic, patronage basis of most parties and the rarity of divided governments to name but a few), actors base their term limit choice on considerations of the best way to maximize their personal position given the idiosyncrasies of political competition in their polity. As a result, a concern with the balance of power between parties in the run up to national elections get translated through mechanisms of threat of replacement and ease of switching parties as actors are variously looking for the best way to ensure their own re-election. By specifying how perceptions of party strength work through these mechanisms to shape the preferences of each type of actor in the decision process, we can build an explanation of how rational choice logic interacts with structural realities to produce institutional outcomes. The following chapters will explore how competing actor preferences, namely outcome and action preference, and the strategies available to the actors in a given context to mitigate the negative consequences of favoring one preference type over the other is the link that probabilistically connects perceptions of relative party strength to term limit outcomes across sub-Saharan Africa.

Outcomes: Aggregate Decision

Once all actors determine what stance to take with regard to the status of executive term limits given their preferences and structures within which they are acting, their individual decisions combine with the decisions of all other relevant actors to produce an ultimate result. Based on this result, term limits are either espoused or rejected in time period one and either upheld or violated in time period two. In all African cases except one (Niger), sitting African presidents have not challenged these final verdicts. This is especially significant in cases where presidents proposed

the abolition of term limits only to have their own parliaments reject the measure, as happened in Zambia, Malawi and Nigeria. Such occurrences prompt optimism that an effective rule of law can be developed in sub-Saharan Africa despite the overwhelming history of executive dominance and impunity.

Research Design

My research combines statistical analysis with comparative case study investigation and employs multiple data sources, both of qualitative and quantitative nature. This multi-method approach allows for both the generation and testing hypotheses. In the analysis of term limit adoption (time period one), I use electoral data to compare the strength of the incumbent and opposition parties between countries where term limits were adopted and countries that retained unlimited eligibility for the executive before turning to other more qualitative measures of party strength (i.e. relative attendance at public rallies, extent of constituency bases, organizational capacity, resource availability and others) in the case studies of Zambia and Cote d'Ivoire (see Chapter 3). In the analysis of term limit adherence (time period two), I undertake a more expansive quantitative evaluation through a 'medium-n' logit analysis to assess the level of correlation between a number of broad explanatory variables and variation in executive constraint outcomes (see Chapter 4). These potential explanatory variables are analyzed against a measurement of relative party strength across the universe of relevant country cases, which includes 37 country/president cases in time period one and 26 country/president cases in time period two.³⁸ This statistical analysis then drives the selection of the two in-depth country case studies of Uganda and Zambia that comprise the remainder of the analysis of term limit adherence

³⁸ In a small but growing number of African countries, such as Ghana and Tanzania, more than one president has reached the end of their second term in office. Therefore, the analysis must be conducted along country/president lines in order to avoid confusion.

(see Chapters 5 and 6). In each case study, data from interviews with members of parliament, cabinet ministers, former presidents, civil society leaders, constitutional review commission chairpersons, journalists and more are combined with archival sources to refine the measurement of the relative party strength independent variable and flesh out the causal mechanisms of the argument in order to clarify the links between the level of electoral uncertainty and the nature of executive constraints.

Finally, I return to another round of statistical analysis in order to assess the generalizability of the argument regarding relative party strength and actor preferences by testing the extent to which this argument is able to probabilistically explain the compliance/non-compliance with executive term limits in other regions of the world where they have been tested in recent years, including North Africa, the Middle East, Latin America and Central Asia.

At its heart, this project espouses a *structured contingency* approach that draws on both rational and historical institutionalism and “seeks explicitly to relate structural constraints to the shaping of contingent choice.”³⁹ A structured contingency framework does not see institutions and patterns as determining exactly what choices/actions an actor will undertake, but does view these structures as setting confining conditions that may either restrict or enhance particular choices over others. Accordingly, if one knows the range of options available to a decision maker at a particular point in time (i.e. choice to vote to uphold or abolish term limits during the sitting of Parliament when the amendment is tabled), and the outcome of that decision, one should be able to trace back with the country case using path dependent logic to see how the attractiveness of each choice is a function of a particular set of structures that were put in place at a previous point in time, and vice versa; if the structural conditions can be determined *a*

³⁹ Karl, Terry Lynn. 1990. "Dilemmas of Democratization in Latin America," in *Comparative Politics*, 23:5.

posteriori, path dependent logic should lead to an understanding of the range of options available and the utility of each option.⁴⁰ Accordingly, explicit attention will be paid to the micro-foundations of the decision process that the political actors in the analysis engaged in during the debate over executive term limits in their countries and how that decision is shaped by patterns of party competition.

Broader Themes

In the course of explaining when and how executive term limit provisions are adopted and later effectively constrain presidential tenure throughout sub-Saharan Africa, this project speaks to a number of larger themes within comparative politics in addition to informing our understanding of institutional choice and strength: namely the rise of competitive authoritarian regimes, the balance between formal versus informal institutions in liberalizing contexts and the study of African politics. While a full analysis of how the findings from this project inform these literatures will be undertaken in Chapter Seven, a brief discussion of each is presented below.

Competitive Authoritarianism vs. Democracy

During the liberalization period of the early 1990s, scholars spoke of sub-Saharan Africa as beginning a great “transition to democracy,” which, they assumed, would follow a more or less linear progression until it culminated in a group of consolidated democracies (generally upon completion of two turn-overs in the ruling party).⁴¹ However, as progress towards democracy seems to have stalled in many African, Central Asian, Eastern European and other third wave countries, scholars adopted many new terms such as “hybrid democracy,”

⁴⁰ Ibid, p. 7

⁴¹ Huntington, Samuel. 1991. *The Third Wave: Democratization in the Late Twentieth Century*. Norman: University of Oklahoma Press, p. 266-267 .

“illiberal democracy”, “pseudo-democracy” and, perhaps most in vogue now, “competitive authoritarian regimes” to describe these countries in-limbo that “combine democratic and authoritarian elements.”⁴² Within the study of African politics, there is much disagreement as to whether competitive authoritarian regimes are a type of new, stable entity that will remain in equilibrium straddling the line between democracy and autocracy,⁴³ if they are still on a steady (but slow) track towards democratization and eventual consolidation so long as the democratic elements of the society keep getting utilized and ingrained in society⁴⁴ or if they are not a stable equilibrium at all due to their extensive fluctuations over time.⁴⁵ By disaggregating and focusing on just one institution (term limits) that can be handled democratically by upholding them or handled in an authoritarian manner by abolishing them, perhaps we will be able to get a better sense of what structural conditions and actor preferences interact to affect a country’s level of “hybridity” (from a complete backslide into authoritarianism to a complete transition to democracy and everything in between.). This query will also be taken up again in the Conclusion.

Formal vs. Informal Institutions in the African Context

On a broad level, this research project seeks to join the larger debate amongst Africanist scholars regarding *how* formal democratic institutions matter in the realm of African politics through an analysis of constitutionalism in specific. Drawing on the historical institutionalist tradition, formal institutions can be thought of as “procedures, routines, norms and conventions

⁴² Diamond, Larry. 2002. “Thinking About Hybrid Regimes” in *Journal of Democracy* Vol. 13, 2: 23

⁴³ Levitsky, Steven and Lucan A. Way. 2002. “The Rise of Competitive Authoritarianism,” *Journal of Democracy* Vol. 13:51–65.

⁴⁴ Lindberg, Staffan.. 2006. *Democracy and Elections in Africa*. Baltimore: Johns Hopkins University Press.

⁴⁵ Roessler, Philip and Marc Howard. 2009. “Post-Cold War Political Regimes: When Do Elections Matter?” in Staffan I. Lindberg, ed., *Democratization by Elections: A New Mode of Transition*. Baltimore: Johns Hopkins University Press.

embedded in the organizational structure of the polity or political economy.”⁴⁶ They are *formal* because they are (in theory) enforced through channels that are widely regarded as “official.”⁴⁷ Examples of formal democratic institutions include the electoral system, sub-national government structures, and the constitution, among others.⁴⁸ These codified conventions are designed to promote good governance by countering elite temptations for politically opportunistic behavior, making leaders more accountable to citizens, and creating set procedures for policy formation.⁴⁹ They sit in contrast to *informal* institutions which are “socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels.”⁵⁰ Personal networks, clientelism, corruption, clans and mafias, civil society, traditional culture, and a variety of legislative, judicial, and bureaucratic norms have all been labeled as informal institutions by various scholars.⁵¹

Over the past few years a debate has emerged among observers of African politics regarding the balance between formal and informal institutions across the continent. While some scholars argue that formal institutions continue to play second fiddle to prior methods of ordering conduct in political life including neopatrimonial patronage networks, politics of exclusion,⁵² prebendalist practices⁵³ and ethnic factions,⁵⁴ other scholars assert that constitutional

⁴⁶ Hall, Peter A. and Rosemary Taylor. 1996. "Political Science and the Three New Institutionalisms" *Political Studies* Vol. 44,5: 938

⁴⁷ Helmke, Gretchen and Steven Levitsky. 2004. "Informal Institutions and Comparative Politics: A Research Agenda" *Perspectives on Politics*. Vol 2,4: 727

⁴⁸ Bratton, Michael. 2007. "Formal versus Informal Institutions in Africa " *Journal of Democracy*, 18,3: 97.

⁴⁹ Alence, Rod. 2004. "Political institutions and developmental governance in sub-Saharan Africa" in the *Journal of Modern African Studies*, 42, 2: 163–187.

⁵⁰ Helmke and Levitsky, 2004 p. 727

⁵¹ Helmke and Levitsky, 2004 p. 727

⁵² Mehler, Andreas. 2005. "The Shaky Foundations, Adverse Circumstances, and Limited Achievements of Democratic Transition in the Central African Republic." In *The Fate of Africa's Democratic Experiments: Elites and Institutions*, Leonardo A. Villalón and Peter vonDoepp, eds. Bloomington: Indiana University Press. pp.126-152.

⁵³ van de Walle, Nicolas. 2007. "Meet the New Boss, Same as the Old Boss?: The Evolution of Political Clientelism in Africa" in *Patrons, Clients and Policies*. Herbert Kitschelt and Steven Wilkinson, eds. Cambridge: Cambridge University Press.

rules and other formal institutions are increasingly able to order political life in Africa by fostering true separation of powers, opening avenues for opposition parties, and promoting elections over coups as a means of power transfer.⁵⁵ This project, which looks at the intersection between formal institutions, such as constitutional rules and procedures, and informal institutions, such as party systems and patronage, demonstrates that the debate between formal and informal institutions should not be conceived as an either/or delineation. Instead, if we can build an understanding of how structural conditions interact with informal institutions across a range of environments, we can produce a more nuanced view of this debate. As with the other themes, this one will also be addressed in the final chapter.

African Politics

Through much of the post-colonial period, the nature of executive power in sub-Saharan Africa was a central theme in political research about the continent. Seminal works such as Jackson and Rosenberg's *Personal Rule in Africa* (1982), Young and Turner's *The Rise and Decline of the Zairian State* (1985) and Widner's *The Rise of a Party-State in Kenya: From "Harambee!" to "Nyayo!"* (1992) examined how personalistic leaders came to dominate their one-party states and rule uninterrupted for decades. However, with the wave of liberalization in the early 1990s, the bulk of research in African politics turned to new subjects such as civil society,⁵⁶ protest movements,⁵⁷ warlords⁵⁸ and more recently, African legislatures.⁵⁹ This project aims to bring executive power back into focus by exploring to what extent African presidents are

⁵⁴ Clark, John F. 2005. "The Collapse of the Democratic Experiment in the Republic of Congo: A Thick Description" in *The Fate of Africa's Democratic Experiments: Elites and Institutions*, Leonardo A. Villalón and Peter vonDoepp, editors. Bloomington: Indiana University Press. pp. 96-125.

⁵⁵ Villalón and von Doepp, 2005; Posner and Young, 2007.

⁵⁶ Tripp, Aili Mari. 2000. *Women and Politics in Uganda*. Madison: University of Wisconsin Press.

⁵⁷ Bratton and van de Walle, 1997.

⁵⁸ Reno, William. 1998. *Warlord Politics and African States*. Boulder, CO: Lynne Rienner.

⁵⁹ Barkan, Joel. 2009. *Legislative Power in Emerging African Democracies*. Boulder, CO: Lynne Rienner.

still able to dominate politics in their countries and to what extent the changes wrought by political liberalization have created real constraints on executive discretion. As such, it seeks to situate the current nature of presidential power within the larger political context of 21st century Africa. Insights regarding how we should understand African presidents in the current era based on from the findings of this research agenda will be discussed in the conclusion chapter.

Plan of the Dissertation

This study is primarily concerned with identifying the sources of institutional choice and enforcement in liberalizing states, and developing a systematic framework with which to ascertain the mechanisms that underlie such dynamics. Chapter 2 presents the micro-foundations of the structured contingency approach used to evaluate the context in which decisions on term limits are made, the actors involved, their competing preferences and the pressures introduced by patterns in African party competition. Based on these factors, an argument regarding formation of their ultimate choice of executive constraints is constructed. Chapter 2 also explains how the independent variable, relative party strength, is measured across cases.

Chapter 3 explores the adoption/non-adoption of term limits in time period one. Drawing on interview data and archival materials from the period, the Zambia case is examined in order to flesh out how widespread electoral uncertainty during the moment of liberalization led to the adoption of executive term limits in most countries across the African continent. The case of Cote d'Ivoire is also examined as an example of a country in which low electoral uncertainty due to the relative strength of Houphouët-Boigny's PDCI party resulted in term limits not being adopted into the constitution during the 1990s.

Moving on to time period two, Chapter 4 presents a medium-n analysis of country cases in which at least one president has reached the end of his two-term limit in office. The analysis

is employed to investigate whether relative party strength also probabilistically explains term limit outcomes in this time period or if another explanatory variable is at play. Finding that relative party power is again indeed the more closely correlated, Chapters 5 and 6 present case studies of Uganda, where term limits were lifted and Zambia (with Ghana as a shadow case), where term limits were retained, but only after a contentious parliamentary vote in Zambia, respectively.

Finally, Chapter 7 assesses the argument developed to explain the adoption and adherence to executive term limits against the contravention of other executive constraints across Africa and against the outcomes of challenges to term limit laws in other liberalizing regions including Latin America and the Central Asian Republics. The chapter concludes with some notes on how the findings from this study inform a number of larger debates in comparative politics.

CHAPTER 2

DEVELOPING A PROBABALISTIC MODEL OF EXECUTIVE CONSTRAINT CHOICE

The widespread adoption of executive term limits across sub-Saharan Africa in the early 1990s and the subsequent variation in the ability of such limits to effectively regulate presidential tenure presents a pair of interesting empirical puzzles. Why did a similar institutional amendment process across all countries in both time periods (presidential/cabinet proposal leading to a parliamentary vote) result in vastly similar outcomes in time period one but a clear split between outcomes in time period two? Explaining these puzzles fully involves developing an approach that employs a micro-analytic examination of the decision process but is informed by an understanding of the macro-political context in which these decisions are being made.

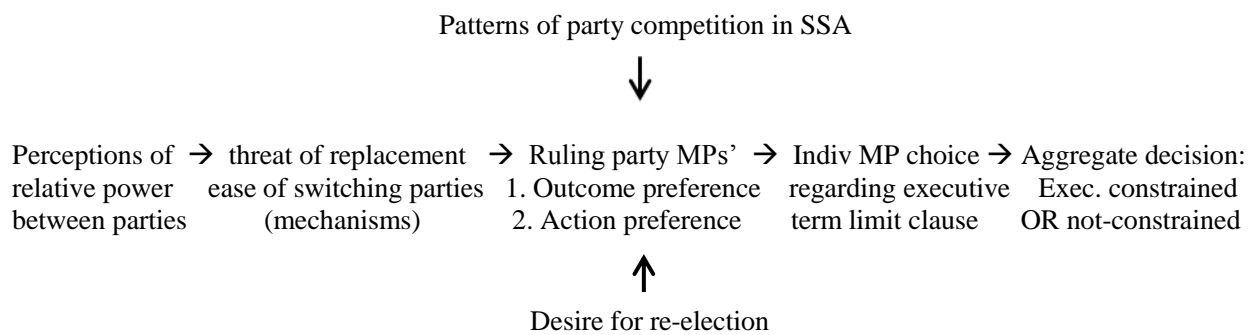
This chapter constructs such an approach. To unpack the process that determines the status of executive term limits across sub-Saharan Africa since 1990, I illustrate how the choice of whether to accede to and/or uphold term limit laws results from a collective decision made within the ruling party that is shaped by the dynamic interaction between immediate strategic concerns and the structural-historical context within which the actors are embedded. As such, the approach takes into account both rational choice logic, which stresses the propensity of actors to act in their own self-interest, and the wisdom of historical institutionalism, which highlights the importance of understanding the strategic opportunities and constraints imposed upon actors by the larger historical political-institutional context within which they are operating. The end result of this analysis is a probabilistic model of executive constraint selection that can account for both

adoption and non-adoption in the first time period and both adherence and contravention in the second time period. In this way, this project aims to inform the discussion on what Laitin and Grief term “a central concern in political science today - viz. how to explain both institutional stability and change.”⁶⁰

The chapter opens by identifying the process and relevant actors involved in the decision on term limits in sub-Saharan African states. Next, widespread patterns of party competition in sub-Saharan Africa (the structure in which decisions on term limits are made) in both the adoption/non-adoption and adherence/non-adherence phases will be described. Following this, the preferences and corresponding strategies available to each set of actors given this party competition environment is explored, noting to the need to look at both outcome preferences and action preferences and the tensions that sometimes arise between them. Then, the costs of these various strategies are assessed and are shown to vary depending on the perceived strength of the incumbent party relative to the opposition into the foreseeable future and the level of electoral competition and uncertainty this creates. This variation, and the two perceptual mechanisms- the threat of replacement and the ease of switching parties- that the relative balance of power between parties creates in the minds of actors, is argued to be the cause of the diverse outcomes of executive term limit choice in and between both time periods across sub-Saharan Africa. While it must be acknowledged here that environment within which decisions on term limits are made in time period one (largely during the turbulent transitions to multi-party democracy in the early 1990s) does differ in many ways from the environment within which decisions were made in time period two (generally during a more stable period marked by regularized elections), the model is flexible enough to accommodate this difference. This is because it primarily examines ruling

⁶⁰ Greif, Avner, and David Laitin. 2004. “A Theory of Endogenous Institutional Change.” *American Political Science Review*. Vol. 98,4:634

party actors' *perceptions* of the strength of their party vis-à-vis the opposition, and actors will base their decisions both on the content of their perceptions and also on the level of certainty they place in their perceptions depending on the source and quality of information available to them at the time. To illustrate, the causal chain can be represented as follows:



Throughout the sections of this chapter, the causal chain will be reconstructed by working backwards from the outcome and filling in the steps as key variables and mechanisms driving the outcome are identified in the text. Since we know the observed variation in term adoption and enforcement among sub-Saharan cases (refer to Figure 1 in Chapter 1), we can begin the reverse reconstruction of the causal chain here by specifying the outcome of interest is whether the president of a given African country is legally constrained or not by a law dictating limitations on executive tenure:

→ Aggregate decision:
Exec. Constrained
OR not-constrained

The Process of Term Limit Choice

Most modern national constitutions allow for their own alteration through a specified amendment process whereby members of the legislative branch vote on whether to add or remove certain provisions from the document. Sub-Saharan African constitutions (both pre- and post-1990s liberalization) are no different, and therefore, the proper legal way for African states

to include or eliminate a clause specifying limits on executive tenure in or from their constitutions is for MPs to debate and decide on the matter in Parliament. In the sub-Saharan cases under study here, the vast majority of both term limit adoptions and term limit deletions were indeed accomplished through official votes in parliament.

In the adoption phase, in all but the few Francophone countries where sovereign national conferences were able to alter constitutions outside of the formal legislative channel (including Benin, Mali and others), bills proposing the adoption of executive term limits were put forth by executives and cabinets and ultimately approved by legislatures. In the majority of cases, it was not the newly elected pro-democratic leaders who proposed such liberal changes to the constitution- rather, by and large, it was the old-guard authoritarian leaders who proposed these amendments and ensured their passage in the single-party dominated parliament just prior to the first multi-party elections. Even more surprisingly, the idea to add term limits and other liberal reforms to the constitution was often made unilaterally by the ruling party, rather than as part of a negotiation with emerging opposition groups, as with the Round Table agreements in Eastern Europe and the pacted transitions in Latin America. As will be discussed in Chapter 3, even in countries like Zambia where the opposition was in a position to negotiate some terms of the transition, adding executive term limits to the constitution was not a demand that was mentioned in opposition group manifestos or raised during meetings between the incumbent and opposition figures. The cause of the widespread undertaking of this process of term limit adoption by more than thirty sub-Saharan African governments during the 1990s poses the theoretical puzzle of why and under what conditions long-standing leaders would acquiesce to limits being placed on their office.

Like the term limit adoption process, the term limit adherence/contravention process across sub-Saharan cases also generally proceeded through the formal-legal channels of a vote in parliament on a proposed constitutional amendment. Virtually every contemporary sub-Saharan African constitution stipulates that an amendment to the document may be made following a two-thirds majority approval by the legislature.⁶¹ Accordingly, in all but one of the twelve cases where term limits were abolished,⁶² they were removed through the procedure specified by the constitution after amendment bills proposing their removal from the constitution was suggested by the cabinet. Likewise, the three cases of failed term limit contravention were also attempted through a vote in Parliament, with the incumbent presidents respecting the parliament's rejection of the amendment and stepping down following the failed vote. Similar to the adoption phase, the decision to table the amendment was made unilaterally inside the ruling party, and most attempted term limit contraventions often occur shortly before presidential elections- in fact of the fourteen contravention attempts more than 70% occurred within 18 months of the forthcoming contest. However, in contrast to the fifteen cases where executive term limits were challenged across sub-Saharan Africa, there have been twelve other sub-Saharan presidents who have reached the end of their second term and have simply stepped down without seeking to amend the term limit provision even though they could have initiated a similar process to seek a two-thirds parliamentary vote on the matter. What drives this variation across cases? A close look at the actors and their motivations within this amendment process that is situated within a larger political environment can help us in learning the answer.

⁶¹ In a few countries, such as Chad, a two-thirds majority vote by the legislature must also be followed up with a popular referendum vote before the amendment can be adopted.

⁶² Niger was the only country where executive term limits were not lifted through a parliamentary vote. After the Nigerian Constitutional Court ruled that President Tandja's plan to hold a referendum to lift term limits was unconstitutional, he dissolved both the Court and Parliament and unilaterally decreed that the referendum go forward. In August, 2009 the referendum was held amid an opposition boycott of the poll and voters approved a new constitution that removed executive term limits from the document.

The Actors

Before exploring the various actor preferences and how they adjudicate between conflicting preferences that arise when approaching decisions on executive constraints, it is necessary to first identify the distinct categories of actors involved in these decisions in sub-Saharan cases. The first category of actor is the *executive* him or herself. The executive is an actor in a decision on limits on executive power in three ways. First, and perhaps obviously, the executive's degree of power is the object of a decision on term limit laws or other legal constraints on the president's office. In this way, s/he is the only actor who is directly affected by the decision, meaning that the stakes are likely higher for the executive than for any of the other actors. Second, the president is instrumental in proposing such an amendment to the constitution. In sub-Saharan Africa, where the president is almost always of the same political party as the majority party in the legislature, an amendment of such consequence would never get to the floor of parliament if it did not have the president's approval. Therefore, the president is intimately involved in the first step (the "proposal" step) of the decision to alter presidential powers.

However, the executive is, ironically, the actor with the least power over the second step of the decision (the "voting" step) which is the official outcome of the decision on executive constraints. This is due to the fact that, in most African democracies, constitutional matters are the sole purview of the legislature. Therefore, the third way the executive is an actor in the voting step is as an indirect advocate or promoter of one of the outcome choices over another. Yet, this indirect role should not be dismissed as unimportant, for African presidents are often quite forceful promoters of their preferred outcome and employ tactics ranging from promises of patronage payoffs to threats of professional or even personal harm to persuade legislators to vote a certain way.

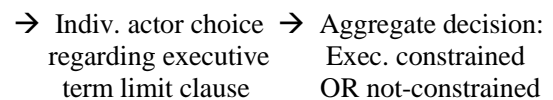
The second class of actors are the *cabinet members, ministers of state and other ruling party elite*. They are the only actors who (in general⁶³) participate in both the proposal step and the voting step of the decision. In the proposal step, they are generally consulted by the president about the idea to adopt or abolish executive term limits or other constraints. During the voting step, they, as members of parliament, vote with their co-legislators to either favor or oppose the amendment that is tabled. Even though cabinet members comprise a minority of parliament members, they, either individually or collectively, may enjoy a disproportionate amount of influence over the vote since they are “prominent actors.”⁶⁴ As such, they may become a reference point for other rank and file party members who are debating which way to vote or they may try to use their elevated positions to influence the vote in any number of ways.

The third and final category of actor is the *rank and file members of parliament*. Though they are not generally privy to the proposal stage of the process, they are the most important actors in the voting stage since they are the ones whose combined votes determine the final outcome of the proposal on executive constraints. During the term limit adoption phase (time period one in this study), rank and file MPs are generally all members of the sole legal party in power at the time. However, during the second time period under study when amendments to lift executive term limits are tabled, while most sub-Saharan countries’ legislatures are still dominated by one party, there are usually some percentage of opposition party members sitting in Parliament who will be casting votes alongside of the members from the president’s party.

⁶³ Here I say “in general” because, while most African constitutions stipulate that cabinet members must be drawn from elected members of parliament, some, like Ghana’s constitution, allow for the appointment of private citizens to the Cabinet (although, the majority of cabinet members must be parliamentarians in Ghana). Therefore, in the case of non-MP cabinet members, they would be part of the proposal step but not the passage step of the decision on executive constraints.

⁶⁴Ermakoff, Ivan. 2008. *Ruling oneself out: a theory of collective abdications*. Durham: Duke University Press. pp. 207-208

Beyond the elected politicians who are directly involved in the formal term limit decision, other actors such as citizens/voters, civil society groups, religious leaders, and opposition parties often participate in debates surrounding the decision and attempt to sway the main actors towards their own preferred outcome. While these secondary actors are not discussed directly in this analysis, the theory presented here accounts for the ways in which these secondary actors can influence the primary actors' decision calculus by incorporating the idea of action preferences into the model in later stages. At this stage of the causal chain, however, knowing that the status of executive term limits in sub-Saharan countries is a result of an aggregate choice made 1) by individual political actors 2) through a formal process of the tabling and voting on a bill in Parliament that contains a clause adding or removing executive term limits allows us to fill in the preceding step in the chain:



The Political Environment: Party Competition in Sub-Saharan Africa

Even though the titles of the actors mentioned above- executive, cabinet ministers, members of parliament- are common labels for specific types of political actors that can be found the world over in most electoral systems, it should not be assumed that these actors will always exhibit the same preferences and behaviors in the African context that they do in other regional contexts. In both time periods under study here, the nature of political competition across the sub-Saharan region significantly affects political actors' preferences as well as the strategies and actions available to them, often in ways that are not observed in more established democracies. In fact, Carbone warns that scholars who attempt to look at African parties "through the models

originally elaborated for the study of Western political parties [are] running the risk of overstretching the meaning of these models in the process of transferring them to emerging democracies.”⁶⁵ This section will identify some of the overarching characteristics of African political parties and electoral competition within which the actors mentioned above are operating and must consider when they formulate their choice on the status of executive term limits in their national constitutions. These characteristics include the following:

1. The non-programmatic/ non-ideological nature of African political parties
2. The clientelist basis for African party structures (as opposed to mass based)
3. Difficulty faced by former politicians in finding employment/maintaining their livelihood
4. The rarity of divided governments in sub-Saharan Africa
5. The strong incumbent advantage and mixed electoral success of “successor” candidates

First, African political parties and party systems by and large do not play the role of mass-based interest articulators and aggregators that parties often perform in other regional contexts.⁶⁶ Barring a few historical exceptions of successful socialist-leaning parties such as Chama Cha Mapinduzi in Tanzania and FRELIMO in Mozambique in the immediate post-colonial era,⁶⁷ most African parties from independence until the present day can be described as “*non-programmatic*” or “*non-ideological*” in that they do not espouse or promote any overarching political policy stance or agenda and are not easily placed along the traditional left-right spectrum. Due to what some have theorized to be the limited economic and political policy options available to African governments based on the conditionalities levied by donor states and organizations,⁶⁸ sub-Saharan parties tend to fill their public pronouncements with vague platitudes promising economic

⁶⁵ Carbone, Giovanni. 2007. “Political Parties and Party Systems in Africa: Themes and Research Perspectives,” *World Political Science Review*. Vol 3, 3:5

⁶⁶ Almond, Gabriel. 1960. “Introduction” in Gabriel A. Almond and James S. Coleman, eds., *The Politics of the Developing Areas*. Princeton: Princeton University Press. p. 26-57

⁶⁷ The few contemporary parties in sub-Saharan Africa that do espouse a Socialist bent, including Senegal’s Parti de l’Indépendance et du Travail (PIT) and Ghana’s Convention People’s Party (CPP) have failed to gain much popular support in elections

⁶⁸ Manning, Carrie. 2005. “Assessing African Party Systems After the Third Wave.” *Party Politics*. 11,6:715-716; Carbone, 2007, p. 10

development and prosperity for all citizens without reference to specific policy prescriptions or ideological frameworks. In fact, official party platforms tend to closely mirror each other,⁶⁹ as did the platforms put forth by the NRM and FDC parties in the run-up to the 2006 presidential and parliamentary elections in Uganda, where it was widely rumored that the NRM simply copied the FDC platform nearly verbatim and released it as their own.⁷⁰ As a result, individual politicians generally campaign on their ability to deliver good to their constituency while attempting to discredit their opponents' ability to do the same. This strategy has been underscored by the empirical reality that the few African parties that have campaigned on substantive and specific policy issues have not been successful at the polls.⁷¹

The non-programmatic/non-ideological nature of parties in Africa is linked to the fact that party formation across the continent has not followed a similar trajectory as party development in other regions in terms of the types of parties that have emerged. A distinct lack of many of the cross-cutting cleavages present in a plural polity and a shallow civil society south of the Sahara has greatly restricted the strategies by which parties could connect to the society.⁷² For example, Carbone reports a paucity of nationalist and religious parties across the continent,⁷³ while Bienen and Herbst explain that the lack of class conflict historically across sub-Saharan Africa has meant a dearth of class-based parties.⁷⁴ Furthermore, recent research by Erdmann and others suggest that the widespread notion that African parties are largely ethnically-based is misleading,⁷⁵ as a closer

⁶⁹ Manning, 2005. p.716

⁷⁰ Oguttu, Wufala. 2010. "Presidential Candidates Besigye And Museveni - Who is Copying Who?" *New Vision*, December 15, 2010: <http://www.newvision.co.ug/D/121/614/741546>

⁷¹ van de Walle, Nicolas and K. Butler. 1999. "Political Parties and Party Systems in Africa's Illiberal Democracies." *Cambridge Review of International Affairs*, 13, 1: 14–28.

⁷² Manning, 2005. p. 712, 716

⁷³ Carbone, 2007 p. 8

⁷⁴ Bienen, Henry and Jeffrey Herbst. 1996. "The Relationship between Political and Economic Reform in Africa" *Comparative Politics*, October, p. 26

⁷⁵ Erdmann, Gero. 2004. "Party Research: Western European Bias and the 'African Labyrinth'." *Democratization* 11, 3:63-87. See also Lindberg, Staffan I. and Morrison, Minion K.C. 2008. "Are African voters really ethnic or

look at most parties that have been labeled as ethnic parties are in actuality better described as trans-ethnic or ethnic congress parties in the vein of the Kenyan African National Union (KANU), which are built as an ethnic elite coalition even if a certain ethnic group becomes more dominant within the party at different points in time. Moreover, what on the surface looks like ethnic mobilization and voting is now often being re-classified as regional/local voting.⁷⁶

This non-programmatic/ non-ideological character of African parties and party systems has interesting consequences for electoral competition across sub-Saharan Africa. Most notably, in a context where parties do not have clear programmatic or ideological identities, voters often have little basis on which to differentiate parties. Depending on the specific country context, this can lead to a situation in which voters have no reason to switch their vote to a seemingly similar party or, alternatively, where switching their vote is a low-cost action for citizens because it does not entail any ideological re-commitment on the part of the voter. Similarly, African politicians are able to switch parties with a lot more ease than their counterparts in polities where transferring their allegiance from one party to another would necessitate a public renunciation of their former beliefs (which the electorate may not trust) and the espousal of a new, often seemingly opposite, ideology. Finally, recent elections in countries all across sub-Saharan Africa have seen a dramatic rise in the number of parliamentary aspirants (and even incumbent MPs) running and winning as independent candidates. The non-programmatic nature of parties and the resulting campaigns based on personal capabilities rather than policy platforms open the space for independent candidates in sub-Saharan Africa that is not available in regions featuring more historically-structured ideological political competition.

clientelistic? Survey evidence from Ghana.” *Political Science Quarterly*, 123, 1: 95-122

⁷⁶Stroh, Alexander. 2009. “*The Power of Proximity: Strategic Decisions in African Party Politics*.” GIGA Working Paper No. 96: www.giga-hamburg.de/dl/download.php?d=/content/publikationen/pdf/wp96_stroh.pdf

If parties across sub-Saharan Africa have not developed to be vehicles that aggregate mass voter interests, what function do they serve? Since the single-party era of the 1960-80s and into the multi-party era today, *the modal African political party has existed to empower and enrich a small group of ruling party elites in the capital by providing them direct access to state resources.* This is the second characteristic of African party systems that politicians must consider when voting on alterations to governance rules. In order to promote political stability, leaders have used the form of the party to practice and routinize political clientelism. Clientelism (primarily in the form of prebendalism⁷⁷ rather than the more well-known practice of patronage) was and continues to be employed by leaders as a strategy to use state resources to forge alliances across different social elites in a young, instable and poorly integrated political system.⁷⁸ Due to both the vast powers bestowed upon the president (who is almost always head of the party as well as head of state and government) in most African constitutions and informal practices of weak legislatures that have developed over time, presidents in the region enjoy a high degree of control over things like national budget allocations, ministerial appointments and candidate funding. Accordingly, presidents use their control over the access and distribution of state resources and positions to reinforce their rule so that parties become little more than arenas for intra-elite accommodation in the context of presidential attempts to centralize power and wield it effectively.⁷⁹ As such, most of the material gains from clientelism are limited to a small group of ruling party elite. In order to achieve the enrichment of a small group of elite, party organizations across Africa are

⁷⁷ Prebendalism is when an individual is given a government/political position in order to give the person personal access to state resources. See Joseph, Richard A. 1987. *Democracy and Prebendal Politics in Nigeria: The Rise and Fall of the Second Republic*. Cambridge: Cambridge University Press..

⁷⁸ van de Walle, Nicolas. 2007. "Meet the new boss, same as the old boss? The evolution of political clientelism in Africa," in Herbert Kitchelt and Steven I. Wilkinson, eds. *Patrons, Clients and Policies: Patterns of Democratic Accountability and Political Competition*. New York: Cambridge University Press. pp. 50-67

⁷⁹ *Ibid*, p. 55

designed to function much like private sector firms (but without a board of directors elected by shareholders to oversee operations) rather than public sector organizations.

Evidence of this can be seen in the way in which the structures of African political parties have been developed. Actual party organizations are rather thin, mostly consisting of the party leader-president at the top who distributes patronage to a small, tight-knit group of central elites directly under him. In fact, a recent survey of 200 African political parties in 15 African countries revealed that virtually all of the parties had “adopted centralized party structures, whereby the central or national office makes all major and minor decisions affecting the functioning of the political parties.”⁸⁰ Any party links to the grassroots level, regional structures or periphery is ad hoc and consist mainly of opportunistic coalitions with local leaders who deliver voters, usually through intimidation, formed shortly before every election.⁸¹ As a result, Salih, in another study, finds that three-quarters of the sub-Saharan parties he studied had no offices at the local polling station level and 62 per cent had no district or provincial coordinating offices.⁸² There has been little effort by African party leaders to extend their structures beyond the central core because that would necessitate the transfer of resources away from the central party elite. It is clear from randomized interviews with party leaders in countries as diverse as Ghana, Ethiopia, Kenya, Malawi and Zambia that sub-Saharan parties are functioning as personal resource bases for party elite, as 85% of them reported that being a party leader had increased their wealth, prestige and social standing.⁸³

Since “proximity to the state has proved to be a central strategy for individual enrichment,”⁸⁴ politicians strive to keep themselves in office any way that they can and in the

⁸⁰ Salih, Mohamed and Nordlund, Per. 2007. “Political Parties in Africa: Challenges for Sustained Multiparty Democracy.” Stockholm: International IDEA.

⁸¹ Ichino, Nahomi. 2006. *Thugs and Voters: Political Tournaments in Nigeria*. Ph.D. Thesis, Stanford University; Also, van de Walle, 2007. p. 52

⁸² Salih and Per, 2007, p. 81

⁸³ *Ibid*, p. 80

⁸⁴ van de Walle, 2007, citing Callaghy, Thomas . 1988. “The State and the Development of Capitalism in Africa:

good graces of the ruling party. The reason why being part of the political elite and within the clientelist network of the ruling party is so crucial is because *there are limited opportunities for employment outside of the public sector for former members of government*. This third characteristic of party competition across sub-Saharan Africa is important for all actors to consider when making decisions that could affect electoral outcomes. Unlike in the United States where former Congressmen are coveted by lobbying and consulting firms, former sub-Saharan African MPs and ministers have a difficult time finding employment because managers do not feel they would be able to give orders to a former MP⁸⁵ and because firms fear hiring someone who has fallen out of favor with the government for fear of retribution by the ruling party. Even self-employed former MPs report having difficulty making a living out of office as their businesses are routinely shut out of government contracts and MPs who leave government on bad terms with the ruling party even report being audited and found in violation by tax authorities under orders from above.⁸⁶ Thus, for many African politicians, retaining office is tantamount to preserving one's livelihood or even freedom.

Yet, it is not only members of parliament who fear losing their posts. Presidents also prefer to retain their office in order to keep benefiting from access to state coffers and because of the history of former presidents being negatively targeted after they leave office. For example, while former western heads of state are revered as "elder statesmen" and often make a better living after they leave office through paid speaking engagements, selling their memoirs and consultancy work, African executives rarely have profitable or productive retirements. Rather, the few former African heads of state who have left office alive are more likely to find

Theoretical, Historical and Comparative Reflections" in Donald Rothchild and Naomi Chazan (eds.) *The Precarious Balance: State and society in Africa*, Boulder: West View Press.

⁸⁵ Author interview with NRM MP, 2/12/08, Kampala Uganda

⁸⁶ Author interview with NRM Minister, 2/19/08, Kampala Uganda;

themselves in jail (Diori of Niger), in exile (Nkrumah of Ghana, Mengistu of Ethiopia), on trial for human rights violations (Habre of Chad) or corruption (Chiluba in Zambia, Muluzi in Malawi) than on the international lecture circuit. The stories of former Ugandan President Milton Obote being reduced to living in his garage because the roof of his house leaked⁸⁷ demonstrate just how far former African presidents can fall after they leave office, especially if their successor is not from the same party. Therefore, retaining the presidency is the best way for these individuals to ensure their welfare, both financially and personally.

One of the most surefire ways a sitting president can increase his chance of winning re-election in a multi-party system is to retain incumbent advantage. Incumbent advantage, the widely recognized phenomenon whereby officials currently holding an office are much more likely to win the next election than challengers for the position, is particularly strong in sub-Saharan Africa. In elections where incumbent presidents have face challengers, only one out of fourteen resulted in a turn-over of power between 1960-1989.⁸⁸ Even after the widespread resumption of multi-party elections in the late 20th century, between 1990 and 2007, only fourteen incumbent presidents (out of 100 elections) lost their seats to challengers, for an 86% re-election rate for incumbent candidates.⁸⁹ This clear benefit to incumbent candidates is contrasted with the decidedly mixed fate of “successor candidates”- presidential candidates personally anointed by an outgoing president to run in their place. While some successor candidates, such as Levy Mwanawasa in Zambia who was hand-picked by outgoing President Chiluba, do go on to win the presidency, a surprising number of successor candidates, including Uhuru Kenyatta in Kenya and John Atta Mills in Ghana, have lost their elections, resulting in a

⁸⁷ Nyasulu, Hastings. 2001. “Ugandan Ex-President Living in Garage” News 24 South Africa. Accessed on 6/29/10: <http://www.news24.com/Africa/News/Ugandan-ex-president-living-in-garage-20010109>

⁸⁸ President Aden Abdullah Osman lost the 1967 elections in Somalia to Abdirashid Ali Shermarke

⁸⁹ Posner and Young, 2007, p. 131

turn-over of power in the presidency AND the legislature. *The overwhelming success of incumbent presidential candidates coupled with the decidedly mixed fortunes of successor candidates* is the fourth noteworthy aspect of party competition that sets the stage for the analysis of executive term limit choice.

At first glance, it would seem that only presidents' electoral fortunes would be affected by changes to the executive term limit law in the constitution. However, the *extreme rarity of divided governments* (where one party wins the presidency but another party obtains a plurality or majority of seats in the legislature) in sub-Saharan Africa means that the ability for an MP to retain her seat is inherently tied to her party's ability to capture the presidency. This is the fifth characteristic of African party competition that actors must consider during term limit debates. Bogaards observes that "whether concurrent or not, presidential and parliamentary elections in Africa as a rule return the same party to power."⁹⁰ A look at the evidence confirms Bogaards assertion- since the period of liberalization began in 1990, by the author's count there have been 138 legislative elections in the countries included in this analysis (African states where the president is directly elected). Out of these 138 elections, the president's party⁹¹ captured a majority (50%+1) of the seats in the legislature in 97 (or 70% of) elections. This even tends to hold true when there is turn-over in the presidency: in Ghana, the NDC retained a majority in the legislature throughout Rawlings tenure, but in 2000 when NPP's Kufuor won the presidency, the NPP captured the parliamentary majority as well. Even in elections where the presidents' parties do not manage to win a full majority, they have still won a plurality of seats in another 21

⁹⁰ Bogaards, Matthias. 2004. "Counting parties and identifying dominant party systems in Africa" *European Journal of Political Research*, 43(2): 184

⁹¹ Either the party of the presidential candidate who was elected concurrently if executive and legislative elections are held at the same time, or the party of the president in office during the elections if executive and legislative elections are staggered.

elections (15%). Instances of true divided governments (where an opposition party captures a plurality or majority of seats in the legislature) are the rarest outcome and have only occurred in only 13 (9.4% of) elections.⁹²

The extreme rarity of divided or even minority governments across sub-Saharan Africa and the high probability that the party that captures the presidency will also win a majority of the seats creates a dynamic in which members of parliament view their chances for re-election as intrinsically tied to the ability of their party leader to win the presidency. If a party wins 50, 60 or even 70+% of the seats in the legislature on the coattails of a successful presidential candidate, the probability that any individual MP from that party will win a seat is much higher than in a situation where the legislative election results co-vary to a lesser extent with executive election results and divided governments are more common (as they are, for example, in the United States where, since 1900, 41% of elections have resulted in divided governments where the president's party did not control one or both houses of Congress).⁹³ This means that ruling party MPs will see it in their self-interest to raise the likelihood that their party's presidential candidate will win future elections.

These five relevant historical patterns of party competition in sub-Saharan Africa shape the environment actors find themselves imbedded within when they face decisions regarding the design of the rules of the political game. They all influence the extent to which actors wish to retain their positions in government and the strategies available to them to achieve this goal. The historical-institutional space created by the unique aspects of party competition in sub-Saharan Africa and the extremely strong desire among African politicians to retain their offices can be represented in the causal chain as such:

⁹² The final seven elections (5%) of the 138 are instances in which the winning president runs as an independent.

⁹³ Author's calculations

Patterns of party competition in SSA



→ Indiv actor choice regarding executive term limit clause → Aggregate decision: Exec. constrained OR not-constrained



Desire for re-election

Actor Preferences

The environment of party competition shapes elite actors' preferences and subsequent strategies when they are faced with a decision on executive term limits. In situations in which a group of actors is tasked with making a collective decision, such as passing a constitutional amendment, there are actually two types of preferences that each individual actor holds: 1) an outcome preference and 2) an action preference.⁹⁴ An *outcome preference* is simply a matter of what end result the actor favors for his/her own ideological, strategic or pragmatic reasons. This is what choice the actor would choose in a vacuum (or in a secret ballot) where there was no personal cost associated with choosing one outcome over another. In terms of actors deciding on constitutional matters, their outcome preference is to adopt the constitutional language that they feel is most concomitant with a range of interests including their political convictions and values, their vision for the polity, the power of their branch of government and their personal political future without reference to how other stakeholders may think of and/or react to their choice.

The second type of preference, an *action preference* is, at its most basic, the behavioral stance towards the decision that each actor prefers to take in light of the consequence s/he expects to face from the various stake holders. As such, an actor's action preference is rooted in his/her knowledge of where other stakeholders (the reference groups) stand on the issue and their ability to

⁹⁴ Austen-Smith, David. 1992. "Strategic Models of Talk in Political-Decision Making" *International Political Science Review* Vol 13,1: 45 as cited in Ermakoff, 2008, p. 184

exact punishment on those who take the opposite stand.⁹⁵ In addition, each actor's action preference is shaped by his/her individual threshold, which is the propensity of an actor to choose a course of action that deviates from the behavioral stance of the majority of the reference group. As Ermakoff concisely wrote, "isolation carries a cost."⁹⁶ Is the actor willing to take a stance that is opposed by all other actors (an absolute threshold)? If not, what proportion of actors must demonstrate a willingness to undertake one line of action before the actor in question will exhibit a similar behavioral stance (a relative threshold)? Thus, with regards to an actor deciding on constitutional matters, his/her action preference is to be seen supporting the constitutional language that his/her reference groups support without concern for the effects the amendment might have on political outcomes in the future.

Often action preferences and outcome preferences are in line with each other. If an actor is in favor of the outcome choice that is also supported by his/her reference groups, his/her action preference in voting for that option will directly lead to his/her outcome preference. However, if the actor's outcome preference differs from that of other stakeholders to which s/he is connected, s/he must decide whether to vote for his/her preferred outcome and run the risk of retaliation from one or more stakeholders, or whether to vote in a way that the others prefer and, thereby, act in direct opposition to his/her own preferred outcome. In these situations, where action preferences and outcome preferences are diametrically opposed to each other, each actor must devise his/her own method of determining which preference to privilege.

The old truism "where you sit is where you stand" suggests that both outcome and action preferences will differ somewhat between the three categories of political actors- presidents, cabinet members, and parliamentarians- who are participants in term limit decisions in sub-Saharan

⁹⁵ Ermakoff, 2008, p. 191-192; 205

⁹⁶ Ermakoff, 2008, p. 187

states. How should the preferences of each of these actors be understood given the nature of African political competition described above? The next section reveals the preferences of each class of actors in turn.

The Preferences of the Executive

Outcome Preferences

As described previously, on the question of executive tenure, African presidents prefer to preserve their position as the executive in order to retain access to state resources as an avenue to personal enrichment and to avoid the uncertainty of retirement given the misfortunes former presidents have faced across the continent. Beyond personal welfare considerations, presidents may also wish to retain office in order to carry out their policy preferences, for psychological motives related to feelings of self-importance, or for any other number of idiosyncratic reasons. Thus, the main outcome preference of the executive is for himself to remain in office indefinitely.

Yet, if the costs of retaining office are too high, the president's second order outcome is for himself to step down but provide for the possibility of the next presidential candidate from his party to be elected in competitive elections. Within the framework of competitive elections, the current president would clearly prefer his party to retain power in subsequent elections at least for as long as he is alive. If the former president's party retains the presidency and/or a majority in the legislature, it is more likely (but certainly does not guarantee⁹⁷) that the former executive will not be persecuted in retirement. However, even if the president's party cannot win all elections into the foreseeable future, he can hope for some protection from prosecution as

⁹⁷ Former President Chiluba in Zambia was put on trial by his MMD successor, Levy Mwanawasa, who was Chiluba's own vice president in the early years of his presidency.

long as the political system contains institutions that provide for competitive elections and turnover of the executive office. This is due to the idea of reciprocity- if the new opposition party president fears he could lose power in the next election and be at the mercy of the former ruling party once they regain power, he'll be more likely to set a precedent of revering former leaders rather than persecuting them. Thus, the president's second preference is to step down and for his party to engage in competitive election.

The executive's third preference, which is what he would like to avoid at all cost, is for his party to become non-competitive, meaning that an opposition party has a strong enough incumbent advantage to dominate elections into the foreseeable future. With no party ties to offer protection and no competitive institutions to constrain the actions of an opposition successor or to give the president's party a chance to regain power, the president is left open to any and all retribution the new national leader wishes to inflict upon his former political rival. This situation is absolutely unappealing to the president because it is the only circumstance that leaves him with no protection at all.

This constellation of outcome preferences regarding executive tenure helps shape both the strategies available to the president and the perceived payoffs (which comprises both the costs and benefits) of those strategies in terms of choosing which institutions of executive constraints to champion for inclusion into their countries' constitutions. Focusing on executive term limits, the choices of strategy are clear cut: Strategy I: Oppose the adoption or upholding of executive term limits or Strategy II: Favor the adoption or maintenance of executive term limits. When these two strategy choices are aligned with the preference ordering above, the result is as follows:

Preference 1: President retains office indefinitely in non-competitive elections = Strategy I: Oppose term limits

Preference 2: President/successor candidate competes in competitive elections = Strategy II: Favor term limits

Preference 3: President/successor candidate loses in non-competitive elections = Strategy I: Oppose term limits

Action Preferences

Distinct from his outcome preference, a president's action preference in executive tenure debates is related to how other stakeholders perceive the behavioral stance he takes towards the idea of term limits. By choosing to favor or oppose term limits, the president may face consequences from other actors who disagree with the president's choice. For example, a president who does not favor limits on executive tenure may fear losing donor funding from western governments that promote the creation of democratic institutions, losing the respect of presidential peers in the African Union, and/or disillusioning democratically-minded party members, military leaders and ordinary voters (who may later seek to violently overthrow him as happened to President Tandja in Niger and Ben Ali in Tunisia after they oversaw the abolition of term limits in their states). Conversely, a president who favors term limits could face ire from his political party for giving up their incumbency advantage, and therefore weakening the party as a whole. Thus, the president must weigh the costs of each action preference in and of itself while also assessing how each action preference lines up with the outcome preference he would like to obtain when deciding whether to endorse or reject particular constraints on executive power.

The Preferences of Cabinet Ministers

Outcome Preferences

The preference ordering of cabinet ministers and other party elite share some similarities with the president's, but can also differ based on the position of each individual minister. First and foremost, they would like to retain their powerful posts for as long as possible because ministerial positions in sub-Saharan Africa give the officeholder greater access to patronage. Patronage is not only a means of personal enrichment for cabinet ministers, but also aids in re-election, for constituents view MPs who are also cabinet members as better able to benefit the constituency since ministers "have a hand in deciding where to allocate public resources, presumably in their home districts"⁹⁸ Keeping their ministerial posts entails the cabinet members' party maintaining its hold on power. This is in line with the president's top two preference from above- the current president remaining in office indefinitely or the incumbent party retaining the ability to win future competitive elections.

However, the exact ordering of these two preferences varies depending on the individual cabinet member and his/her perception of his/her own standing within the party hierarchy. There may be some high ranking cabinet ministers who covet the presidency themselves, and therefore would prefer that the term limits be adopted/upheld (thereby foregoing incumbency advantage for their party) so that the current president must step down, thus opening the door for their own presidential bid. Yet, other lower ranked cabinet members who do not command enough influence within the party to be a serious contender for the presidency may see his/her interests better served by the current president retaining the office into the future. Reasons for this preference may include a sense by the minister that the incumbent president has a better chance

⁹⁸ Arriola, L., 2009. "Patronage and Political Stability in Africa," *Comparative Political Studies*, Vol. 42,10: 1346.

of winning future elections than a successor candidate from the party and a fear that a new president might undertake a cabinet reshuffle, which could leave some current ministers demoted without a cabinet post. Thus, in terms of ordering preferences for the cabinet ministers, the preference for the president to remain in office indefinitely in non-competitive elections may be ranked above or below the preference for the party to engage in competitive elections based on their position within the party.

No matter the ordering of their first two preferences, cabinet ministers share the president's least preferred option of the party becoming non-competitive in future elections. In order to have the best chance of retaining their positions (or at least the chance to win them back in the medium term should they lose them in the short term), ministers would rather their party run in but lose competitive elections but retain the chance to win future elections rather than have their party become non-competitive with no chance of recouping power at the national level. Therefore, in terms of strategy regarding both proposing a bill on executive term limits and voting on it in Parliament, the preference ordering of cabinet ministers is as follows:

Preference 1 & 2: President retains office indefinitely in non-competitive elections = Strategy I: Oppose term limits

OR

President/successor candidate competes in competitive elections = Strategy II: Favor term limits

Preference 3: President/successor candidate loses in non-competitive elections = Strategy I: Oppose term limits

Action Preferences

The action preference choices facing cabinet members are distinctive from those facing presidents because they have different reference groups and thus encounter different constraints than the executive. The cabinet member's two primary reference groups are his/her fellow party

members (most notably the president himself) and his/her parliamentary constituents. In terms of the party, a minister who does not agree with the president and other party members about the status of term limits may risk retribution from the president (i.e. losing his/her portfolio) and being ostracized by other ministers. In terms of the second reference group, his/her constituents, a cabinet member must consider how the majority of voters from his/her district view the question of term limits since constituents may choose to vote out of office parliamentarians who do not represent their views. In instances where the views of the minister's party and constituents diverge, he/she must decide how best to minimize their risk of punishment from one or both groups. Strategies for this will be discussed below in the section on action preferences of members of parliament.

Preferences of Rank and File Members of Parliament

Outcome Preferences

Theories of executive-legislative relations based on advanced democracies would posit that African parliamentarians should always desire to restrict presidential tenure in order to strengthen the power of the legislature vis-à-vis the power of the executive. Yet, as the earlier discussion of the dynamics of sub-Saharan party competition demonstrated, the patronal nature of African parties and the rarity of divided governments prompt ruling party African MPs to view having a strong president as being more advantageous to their personal political career than being part of a strong legislature. Therefore, in order to increase their own probability of retaining their seats (the first priority of all MPs) individual parliamentarians from the ruling party ultimately prefer the incumbent president to remain in power so their party can retain the incumbent advantage and thereby increase their own electoral chances. While some MPs may

perceive that they would have a better chance of rising in the ranks to become a cabinet minister if another party elite (perhaps someone who is a personal friend or someone from their ethnic group, religious denomination, region or cousinage⁹⁹) were to gain the presidency, this notion is often overshadowed by the fear that a change at the top of the patronage network could cause the whole network to collapse, thus resulting in the MP getting nothing and being worse off than she was under a president of another ethnicity/religion/group.

Yet, there may be occasions where an incumbent president has lost so much popular support (due to corruption scandals, economic mismanagement or any number of other publically-known misdeeds) that an MP perceives that her party would be better served by giving up incumbency advantage and running a new candidate for president. However, this is a dangerous preference to act upon precisely because of the possibility of being “decampaigned”¹⁰⁰ for displaying disloyalty to the incumbent leader. In cases such as this, one new possibility exists that must be included in the preference ordering of MPs: switching parties.

If a member of parliament perceives that she may have difficulty re-winning her seat under her current party banner (either because she is being decampaigned by the party or because popular opinion now favors an opposition party), in a multi-party system, the MP has the option of switching his/her party affiliation.¹⁰¹ How likely the MP is to win the election under a new party label is conditioned by many factors which will be discussed later in the following section of the chapter. Yet, the point remains that an MP who is primarily worried about job security has

⁹⁹ Dunning, Thad and Lauren Harrison. 2010. “Cross-cutting Cleavages and Ethnic Voting: An Experimental Study of Cousinage in Mali. *American Political Science Review*. Vol. 104,1:21-39

¹⁰⁰ “Decampaigned” is a term used throughout sub-Saharan African to describe a situation where a party does not support an incumbent candidate in the next election but instead actively supports another candidate to run on the party’s ticket in that constituency.

¹⁰¹ Cabinet ministers can also switch parties (or even start their own new opposition parties) as well. However, it is being presented here under the discussion of MP preferences and strategies because Cabinet ministers usually switch parties for reasons of personal advancement, which is different from the preference for job security/survival that is the primary preference under examination here.

options other than remaining with the incumbent party, which can impact the choice of strategy an MP pursues with regards to the term limit question.

In terms of preference ordering, switching parties is certainly better for an MP than remaining a member of a non-competitive party that has no chance of re-capturing power. Yet, switching parties can often, but not always, carry a higher cost to an MP than remaining with her original party in a competitive electoral environment. Specifically, an MP who switches parties may win the next election, but if she loses and her former party goes on to retain power for many subsequent election cycles, it will have been a bad gamble, and visa-versa. Since it is not clear in the abstract which choice is preferable to the other, and with the understanding that the exact ordering will vary among MPs given their specific circumstances, preferring that their party engages in competitive elections and switching parties generally share the second preference order in the list below.

It should be noted that in every country case, there may be some MPs (and cabinet ministers) whose outcome preference is more strongly shaped by personal democratic attitudes than by instrumental career aspirations. These individuals may favor the adoption/upholding of term limits because of their strong belief in constitutionalism and their corresponding convictions regarding the efficacy of executive term limits for creating better governance in their countries in the long run. Interview data demonstrates that, while many MPs expressed a feeling that rejecting executive term limits was not good for democracy, only a few indicated that they prioritized their ideological commitment to democracy above personal and professional gains when deciding on term limit issues. Therefore, for the majority of MPs, the preference ordering is as such:

Preference : President retains office indefinitely in non-competitive elections = Strategy I: Oppose term limits

Preference 2 & 3: President/successor candidate competes = Strategy II: Favor term limits
in competitive elections

OR

Switch parties before next election = Strategy II: Favor term limits

Preference 4: President/successor candidate loses = Strategy I: Oppose term limits
in non-competitive elections

Action Preferences

Rank and file parliamentarians are not involved in the proposal stage of institutional choice, but they do comprise the majority of actors involved in the voting stage. Therefore, it can be said that they, not the president, are the ones who ultimately determine the nature of executive constraints enshrined in the constitution. The outcome of their collective vote on term limits is shaped not only by their outcome preferences listed above, but also by their action preference, which is to behave in a way which will garner them the most favor with (and thereby avoid punishment from) the possible stakeholders, namely the president/party and constituents. Just as was the case with cabinet ministers, an MP may face being decampaigned by the party or may not be re-elected by voters if she votes against the preference of either of these important stakeholders. However, there are potential ways to mitigate the severity of the punishment the other actors can inflict if the MP votes against their preferred outcome. For example, coordinating their vote with other MPs is one tactic because it is easier for the president/party to punish one or two MPs who stray from the party line than it would be to punish dozens of MPs, especially if they were on the majority side of the parliamentary vote. In addition, the ability to switch parties as discussed above lessens the threat of punishment since it means an MP can extricate him/herself from the threatening party (or separate herself from a party that loses favor with constituents over the term limit amendment) and still contest the next election under another

party. Therefore, an MP's action preference is contingent upon her perceptions of the costs and incentives of each choice based upon other MPs' action preferences and the viability of other parties as electoral engines.

In summary, from the president down to individual MPs, each actor's choice on whether or not to support a constitutional amendment that would change the status of executive term limits in their country is shaped by both their outcome and actions preferences (which themselves are conditioned by the larger historical-institutional environment in which the choice is being made). In addition for all actors, the strategy that would achieve their first outcome preference (Strategy I: Oppose term limits) is also the strategy that could lead to realization of their lowest outcome preference, while choosing Strategy II: Favor term limits, would guarantee their second preference, but make the attainment of their top preference impossible. Given these different preferences inherent in the decision on term limits and the two available strategies, how do actors ultimately decide to favor or oppose executive term limits? The next section explores this question by continuing backwards along the causal chain.

Patterns of party competition in SSA



→ Ruling party actors'	→ Indiv MP choice	→ Aggregate decision:
1. Outcome preference	regarding executive	Exec. constrained
2. Action preference	term limit clause	OR not-constrained



Desire for re-election

From Preferences to Choice: Perceptions of Party Strength and Electoral Uncertainty

How do actors translate their ordered preferences into decisions regarding what institutional choice strategy to follow, especially when their outcome and action preferences are in tension with each other? How do they adjudicate between strategies when they risk facing

their worst case scenario if they choose the strategy necessary to achieve their preferred outcome? What cues do actors use to calculate the cost and benefits of each potential institutional arrangement on their own political survival? This section describes how incumbent party actors in the various sub-Saharan country cases under study here base their decision on adopting/adhering to executive term limits on their perceptions of the relative strength of the incumbent party vis-à-vis the opposition and the level of electoral uncertainty this creates in the polity.

To preview the core argument, the main factor that distinguishes African countries that adopt and develop meaningful constraints on executive tenure from those in which presidents are able to avoid adopting or later circumvent the two-term limit is the *perceived degree and direction of change in the incumbent party's strength relative to opposition parties* leading up to the time of the decision. Incumbent party actors who perceive that their party's power is on the rise relative to other parties to the extent that they feel confident their party will continue to dominate elections into the foreseeable future are likely to reject executive term limits. Rejecting term limits is the chosen strategy in these cases because they do not want to implement or retain any institutions that could threaten the current president who is at the apex of the delicate patronage network that is currently driving the success of the party organization. Conversely, incumbent party actors who are uncertain about or perceive that their party's power is in decline relative to opposition forces are likely to embrace executive term limits as an instrument to regulate political competition in an indeterminate future electoral environment as an outcome preference. However, due to their action preference of not wanting to alienate themselves from the party, actors below the executive will only choose to retain term limits if they perceive that it is possible to switch parties to contest the next elections should they be

punished by their current party for disloyalty to the president. These perception of the *threat of replacement* of their party by an opposition party and perception of the *ease of switching parties* held by the main actors therefore serve as the mechanisms that link relative party strength to term limit outcomes.

Competition as a Constraint

Electoral competition is a widely recognized constraint in the domestic political arena. Scholars of both comparative and American politics have identified changing levels of competition in terms of relative party strength as being the cause of a range of diverse outcomes including the design of new electoral rules in the post-Soviet region,¹⁰² the granting or not of the power of the initiative to American voters in the Progressive Era¹⁰³ and the probability of the emergence of self-enforcing constitutions in Latin America.¹⁰⁴ In all of these studies, political power of elite actors was constrained in cases or periods where high levels of competition existed while power was left more unconstrained in times of low competition. Yet, it is often unclear from the outset exactly what aspect(s) of competition drive observed institutional outcomes in these and other cases and what systematic measure of party competition can uncover the mechanisms at play.

Many of the methods used to assess levels of party competition in literature, including the incumbent party's legislative seat share, the effective number of parliamentary parties (ENPP),¹⁰⁵

¹⁰² Jones Luong, Pauline. 2002. *Institutional Change and Political Continuity in Post-Soviet Central Asia: Power, Perceptions, and Pacts*. Cambridge: Cambridge University Press.

¹⁰³ Smith, Daniel A. and Dustin Fridkin. 2008. "Delegating Direct Democracy: Interparty Legislative Competition and the Adoption of the Initiative in the American States," *American Political Science Review* 102: 333-50.

¹⁰⁴ Corrales, Javier. 2006. "Power Asymmetries and the Rise of Self-Enforcing Constitutions in Latin America" Paper presented at the *American Political Science Association Annual Meeting*, Philadelphia, PA.

¹⁰⁵ ENPP is a measure of legislative seat dispersion among parties- $1/\sum S_i^2$, where S_i is the seat share of the i th party.

party system openness,¹⁰⁶ fragmentation,¹⁰⁷ ideological polarization, electoral volatility and others, fall short of revealing *exactly* what aspects of party competition actually drive decisions on institutional design in the case of executive term limits in the African context. Besides not correlating highly with term limit outcomes across Africa (see Chapter 4 for statistical tests of some of these measures), such measures can obscure actual competition since they are static and only take into account the reality at one snapshot in time rather than capturing dynamic trajectories of changing party competition over time. Furthermore, these methods of assessing levels of party competition do not provide clear mechanisms of constraint as they measure “neither the viability of alternative governments nor the fragility of existing ones.”¹⁰⁸ They cannot explain why, for example, an incumbent party that fears they could lose the presidency in the next election would uphold term limits when embracing the opposite strategy of abolishing term limits could lessen the probability of losing the executive office by giving their presidential candidate a leg up on the competition due to incumbency advantage. Therefore, it is imperative to identify what aspect(s) of competition lead elites to choose institutional constraints and what indicators can best capture these aspects.

Relative Strength of Parties in the Party System

The aspect of electoral competition that drives the outcomes of parliamentary votes on executive term limits across sub-Saharan Africa is the possibility it creates for the opposition to formulate alternative governments¹⁰⁹ and win both presidential and parliamentary elections. As

¹⁰⁶ A measure of the percentage of parliamentary seats held by parties that did not run candidates in the previous election

¹⁰⁷ Fragmentation measures the degree to which electoral support or legislative representation is divided among various political parties.

¹⁰⁸ Grzymala-Busse, 2007, p.56-58

¹⁰⁹ *Ibid.*, p. 63

noted earlier, African politicians are rational in the Shumpeterian/Downsian sense and desire re-election and promotion within government above all other goals.¹¹⁰ Due to the ways in which electoral fortunes of MPs are inherently linked to the success of their party's presidential candidate, incumbent party elites strongly desire the re-election of their executive as part of a strategy for achieving re-election for themselves. Especially in the non-programmatic environment of sub-Saharan African politics, the other often-cited goal of politicians and parties, namely to implement their policy preferences,¹¹¹ does not rank highly in politicians' preference list, thus leaving the preference for re-election paramount. As a result, the aspect of party competition that most affects the calculations of political elite in the ruling party is the potential that another party or coalition of parties could become strong enough relative to the incumbent party to capture power and, consequently, obtain direct access to state resources.

They key component of this aspect of competition is that it is based upon the strength of the incumbent party and opposition parties *relative to each other*. Here, party "strength" is meant to denote the extent to which a party can obtain the support of citizens in terms of votes during elections and backing in public opinion polls and other measures of citizen approval in between electoral contests. While other small-n studies of term limit adherence contravention in sub-Saharan Africa have relied only on measures of the internal strength of incumbent parties,¹¹² the conclusions they reach do not hold up when tested against the larger universe of cases because they fail to take into account the nature of the opposition parties relative to the incumbent party in each country. In order for an opposition to be a plausible ruling alternative, it must gain strength relative to the incumbent party, thereby shifting the nature of the party system

¹¹⁰ Kohno, Masaru. 1997. *Japan's postwar party politics*. Princeton, N.J.: Princeton University Press. p. 78, 101

¹¹¹ *Ibid*, p. 10

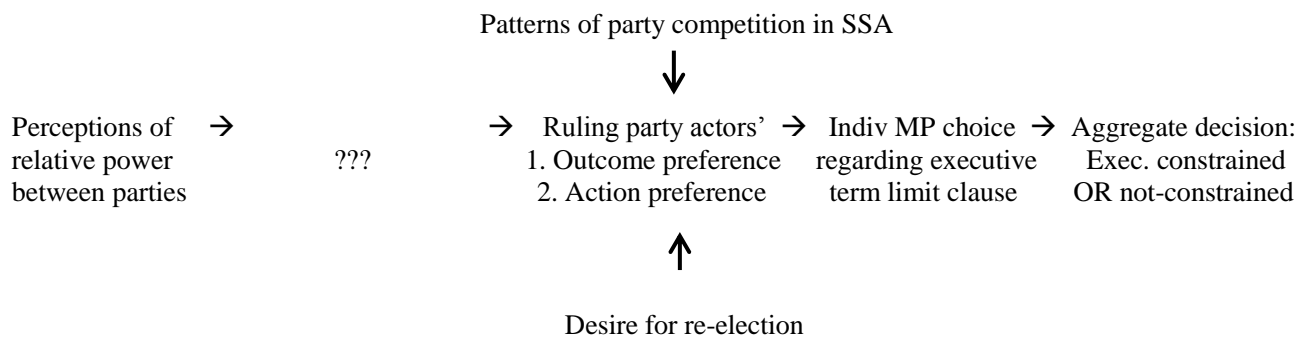
¹¹² von Doepp, Peter. 2005. "Party Cohesion and Fractionalization in New African Democracies: Lessons from Struggles Over Third-Term Amendments." *Studies in Comparative International Development* 40, 3: 65-87.

as a whole. It is not enough for an opposition force to gain strength itself if the incumbent party is also gaining strength (in terms of additional votes or increases in public approval) at an equal rate at the same time. In this case, the level of competition in the party system is not being altered substantially. It is only when an opposition group or party is seen to be gaining strength over time relative to an incumbent party that is either losing strength or retaining its current level that the possibility for an opposition to formulate an alternative government becomes a real consequence of political competition. Thus, the trajectory of relative party strength, including both the *direction and degree of change*¹¹³ over time in the power of both the incumbent and opposition parties is the key aspect of party competition that drives outcomes of term limit decision across sub-Saharan Africa.

Changes in relative party strength over time can alter the level of certainty in the competitive electoral arena. In a polity where the incumbent party has continuously maintained a high degree of strength over the opposition for a long period of time, there is little uncertainty in the electoral arena since it is likely that the incumbent party will continue to dominate elections into the foreseeable future. However, in a polity where the balance of power between the incumbent party and the opposition is becoming more balanced due to an increase in opposition strength, a decrease in the incumbent's strength or a combination of both, the electoral arena becomes quite uncertain. It is in these latter cases, when electoral competition not only makes it possible for the opposition to formulate an alternative government, but a relative balance of party strength makes the replacement of the incumbent president and ruling party by the opposition *plausible*, that institutional constraints on executive power are favored by elite actors. Why exactly does the plausibility of being replaced cause incumbent party actors to

¹¹³ Jones-Luong, 2002, p. 29 theorizes on the importance of taking into account both the degree and direction of change when the relative balance of power between parties is shifting in an uncertain (namely transitional) environment.

unilaterally impose constraints on executive office that they control? To understand the dynamics inherent in this process, it is necessary to explore the mechanisms at play in the decision calculi of the relevant ruling party actors that will ultimately provide the link between the relative balance of strength between political parties (and the level of uncertainty this creates in the electoral arena) and the status of executive term limits in each country case.



Mechanisms: Threat of Replacement and the Ease of Switching Parties

Simply introducing multi-party elections does not guarantee that parties will alter their behavior or preferences in a meaningful way. As Grzymala-Busse writes, “for competition to constrain,... incumbents must worry about being replaced.”¹¹⁴ This is because electoral competition from a plausible ruling alternative creates incentives for incumbent parties to design, implement and uphold formal institutions that will aid them should they lose power rather than just retain institutions that only benefit them as the party in power. This practice of political elites acquiescing to constraints on their power in the short term in order to increase the probability of their medium and long-term survival is a not a new story;¹¹⁵ however, the notion that this choice can be made unilaterally within an incumbent party due to their anticipation of

¹¹⁴ Grzymala-Busse, p. 59

¹¹⁵ See for example, Przeworski, Adam. 1991. *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America*. Cambridge: Cambridge University Press

losing power and does not need to be enacted through negotiations with an opposition in which both parties are seeking mutually beneficial institutional rules is an interesting modification to this theory.¹¹⁶

Thus, in order for incumbent party political actors to enact constraints in anticipation of a possible electoral loss, they must perceive that their party is losing power relative to the opposition and believe this could affect their ability to win elections in the future. Accordingly, the first mechanism that links the relative balance of strength in the party system and term limit decision outcomes is the *perception of the threat of replacement* among ruling party members. If an actor feels certain that her party will win elections into the foreseeable future based on the strength of her party relative to all others, she will perceive a very low threat of replacement. Alternatively, an actor who is uncertain if her party will win the next few elections because her party has been losing strength relative to the opposition in the recent past, or because the relative balance of power in the party system is difficult to ascertain with any certainty, will perceive a high threat of replacement. Actors' perceptions of the possibility of replacement (based on trends they observe regarding shifts in relative party power) directly impact their preferences and strategies with regard to decisions on the design of the constitutional rules that structure electoral competition.

Specifically, actors' perceptions of the threat of replacement drive their ultimate strategic choice associated with their outcome preferences on executive term limits in both time periods by aiding them in understanding the probability of various consequences occurring as a result of the selection of one strategy over the other. If an actor perceives that there is a low threat of replacement because she views her party as possessing a relatively high and/or growing degree

¹¹⁶ See Grzymala-Busse, 2007 (especially p. 63) for another example of incumbent parties unilaterally constraining their access to the state due to a fear of losing office in future elections.

of strength versus any opposition group into the foreseeable future, she will choose Strategy I (oppose term limits) because the probability of achieving her first preference is high and the risk of her last preference transpiring instead is low. Yet, an actor who perceives that her incumbent party has lost or is in the process of losing strength vis-à-vis an opposition party is much more likely to embrace Strategy II (favor term limits) because the threat of replacement is high, meaning her last preference is a highly possible outcome, and she wants to keep her party competitive in the future even if the party should lose the presidency in the next election. In this way, the actor who chooses Strategy II gives up the possibility of retaining the presidency into the foreseeable future in order to block an opposition's party ability to capture incumbent advantage. As such, she sees it in her and her party's best interest to constrain their power in the short term in order to ensure her party remains a competitive force in the future.

Yet, since perceptions of the actual threat of replacement in future elections is necessarily based in part on subjective interpretations rather than objective indicators, it is likely that different actors will employ a diversity of cues to assess the likelihood of replacement. As a result, ruling party actors may reach different conclusions regarding the severity of the replacement threat. This is evident by the fact that votes on term limit amendments in parliament are at times not unanimous among ruling party MPs. For example, in the voice vote in the Senate on the bill to remove the two-term limit from the Nigerian constitution in 2006, members of the ruling People's Democratic Party could be heard on both the "aye" and "nay" sides. However, in most cases, a significant amount of information gathering and vote coordination takes place between MPs that leads to a harmonization of the strategy pursued by the majority of ruling party MPs and, as a result, a near unanimous vote on the term limit amendment in parliament. Ermakoff finds that such information gathering and vote alignment occurs when

parliamentary bodies are tasked with making a controversial decision (especially one that diminishes the Parliament's power vis-à-vis the executive) in an environment of uncertainty.¹¹⁷ As ruling party actors gather information on relative party strength from sources such as their constituents and the media and share their perceptions of the threat of replacement and the probability of certain consequences arising from each potential strategy among each other, a group consensus begins to emerge within the party regarding the most beneficial strategy. This is not to say, however, that the collective always reaches the correct conclusion about their party's actual strength relative to the opposition. One example in which it seems all ruling party actors misperceived their party's strength is Senegal in 1998 when President Diouf and his Parti Socialiste du Sénégal (PS) abolished executive term limits only to lose control of both the presidency and the legislature to opposition candidate Abdoulaye Wade and his Parti Démocratique Sénégalais (PDS) in 2000 and 2001 elections, respectively.

In cases where the president and his cabinet propose a term limit amendment (to either add or remove term limits from the constitution) and the parliament passes it, this is an indication that all three categories of actors perceived their party's relative strength similarly. This is the scenario for most country/president cases in time period one, and eleven country/president cases in time period two (see Figure 1 in Chapter 1 for country categorizations). In these cases, all actors' outcome preferences align with their action preferences, as both the cabinet and parliament achieve their desired term limit status while remaining loyal to their party (see the Zambia case study in Chapter 3 and the Uganda case study in Chapter 5). In cases where the president and cabinet do not propose a term limit amendment due to their perception of the threat of replacement (4 country/president cases in time period one, 12 cases in time period two), it is

¹¹⁷ Ermakoff, 2008.

difficult to determine with certainty that the MPs from the ruling party have the same perception or whether they believe the party leadership is misperceiving the party's relative strength, and therefore, probability of replacement since, in these cases, there is no Parliamentary vote on the matter to provide the relevant data. However, anecdotal evidence from countries such as Mozambique and Kenya in time period two seems to suggest that, while a handful of MPs continued to call for the incumbent president to run again after the president had announced that he would step down, there has not been a case of wide-spread disagreement between the president/cabinet and rank and file party members among the cases under study here. Therefore, with most MPs aligning their behavior with the stated policy of the party on the term limit issue, outcome and action preferences seem to converge in these cases (see the Cote d'Ivoire case study in Chapter 3).

Perhaps the most interesting cases are the ones in which the president/cabinet proposes to amend the status of term limits due to their perception of a low threat of replacement but the bill is subsequently defeated in Parliament, signaling that the members of parliament from the ruling party perceive the threat of replacement to be much higher than does the party leadership. This scenario did not occur in any cases in time period one, but did occur in three cases- Zambia (see Chapter 6), Malawi and Nigeria- in time period two. It is difficult to determine *why* exactly this mismatch in perceptions occurred and the answer is likely to be found in a combination of factors including updated information between the time the bill is proposed to the time it is voted upon, varying appetites for risk among party leaders and party members and other variables that may be idiosyncratic to the particular country case. However, the more important question raised by these cases is why MPs choose to follow their outcome preference and vote against the party line due to their perceived threat of replacement rather than following their action

preference, which would have meant voting for the amendment the party leadership had proposed in order to remain within the good graces of the party. After all, if they sense that their party's power (and therefore their own chances for re-election) is in decline, why would they want to add insult to injury and anger their party as well?

The answer lies in a second mechanism that is shaped jointly by the relative party strength variable and the historical patterns of party competition in each country: *the perceived ease of switching parties*.¹¹⁸ As mentioned previously, the lack of programmatic parties in most sub-Saharan African countries means that, in general, it should be comparatively easy for a politician to defect from one party and run under the banner of another without incurring the costs of changing their ideology. However, this does not mean that switching parties is equally feasible in every African polity. Two main factors affect the viability of this option for politicians. The first stems directly from the balance of strength between the incumbent and ruling parties. In countries where the incumbent party is strong relative to the opposition, switching parties is perceived as difficult by members of the ruling party precisely because their chances of winning an election under the banner of another party are slim due to the weakness of all other parties. As will be discussed in Chapter 5, Uganda is a good case in point- the weakness of FDC and other opposition parties in relation to the dominance of the NRM made switching parties inherently difficult for NRM MPs. However, in countries where one or more opposition parties is strong or gaining strength relative to the incumbent party, MPs and even some cabinet members may perceive that switching parties is a viable option because they have a realistic (and perhaps even good) chance of winning the next election running under a different

¹¹⁸ While the perception of the threat of replacement is employed by all three categories of actors as they decide their stance on executive term limits, the perception about the ease of switching parties only applies to cabinet members and MPs- not Presidents. Since term limits prevent individuals (regardless of party) from serving more than two terms as president, switching parties would not benefit a second term president at all. Thus, this mechanism does not apply to executive actors.

party. Chapter 6 will show how the growing strength of opposition parties relative to the MMD made party-switching feasible for Zambian politicians during the “third term” debate there.

The other factor that shapes actors’ perception of the ease of switching parties, which relates to historical patterns of party competition in each country, is the presence or absence of particularistic barriers on joining parties in the polity. While most parties across sub-Saharan Africa are non-programmatic in their policies, some parties root their patronage structures on linkages such as region, religion or other defined categories. Such parties are difficult for politicians to switch into if they are not from the region or of the religion that anchors the party. A good example of such a party system is Malawi where the three main political parties are each widely perceived to represent different regions of the country- AFORD in the north, MCP in the central region and UDF in the south. Defections from the ruling UDF party are quite rare in Malawi simply because a UDF MP from the south would gain little traction with voters if she ran on AFORD’s ticket.¹¹⁹ As a result, when the bill to remove term limits was tabled in Malawi, all 95 UDF members of parliament voted for the bill¹²⁰ even though it was clear based on the trajectory of past elections that the threat of replacement of their party by the MCP was growing stronger every year. If UDF MPs had perceived that they could feasibly switch to MCP, AFORD or another emerging party, they likely would have voted against lifting term limits. Conversely, as Chapter 6 will explore in detail, an example of where a lack of particularistic barriers to switching parties did facilitate MPs following their outcome preference instead of

¹¹⁹ Defections from AFORD and MCP to the ruling UDF are more a bit more common precisely because joining the ruling party gives politicians access to state resources. However, electoral data shows that opposition politicians who do switch to the ruling party are less likely to win re-election because voters in Malawi tend to vote for their “regional champion” party label, not on individual merit of their local MP. See Young, Daniel. Forthcoming. “An Initial Look into Party Switching in Africa: Evidence from Malawi” *Party Politics*.

¹²⁰ Even though every single UDF MP voted to lift executive term limits, the bill ultimately failed by three votes because the UDF’s coalition partners, who were thought to be on board, ended up voting against the measure.

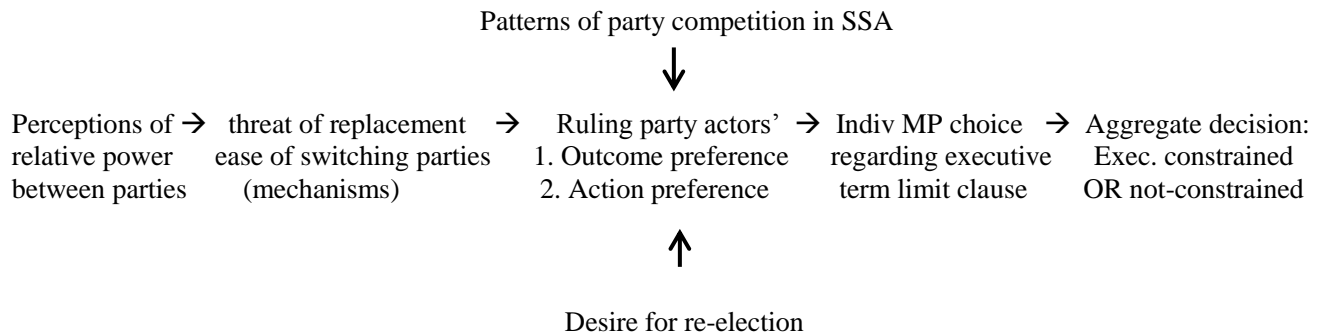
their action preference is Zambia in time period two. In this case, MMD MPs were able to draw on their perceived ease of switching parties to justify following their outcome preference (preserving term limits) because their action preference (remaining in the good graces of the MMD leaders) was made less crucial by the fact that they could switch parties in the future if the MMD attempted to decampaign them for their dis-loyalty in the term limit vote.

To summarize the effects these two mechanisms have on term limit outcomes, it is possible to construct a table that categorizes countries based on their values with regard to actors' perceptions of the threat of replacement and ease of switching parties (see Table 2.1). Only the country cases that are examined in depth in the case study chapters of the dissertation are included in the current table, but any sub-Saharan case could be categorized into one of the boxes based on relevant evidence:

Table 2.1: Categorizing Country Cases Regarding Threat of Replacement and Ease of Switching Parties

	High perceived threat of replacement	Low perceived threat of replacement
High perceived ease of switching parties	Malawi (time period 1) Uganda (time period 1) Zambia (time periods 1 & 2) Result: Term limits favored	Category not possible: by definition, if no party is strong enough to challenge the incumbent party, there is no party an actor can switch to and have a reasonable chance of winning the next election.
Low perceived ease of switching parties	Malawi (time period 2) Result: Mixed- outcome depends on the percentage of actors who privilege their outcome vs. action preference.	Cote d'Ivoire (time period 1) Uganda (time period 2) Result: Term limits rejected

With the identification of the two mechanisms that link the main independent variable of relative party strength to term limit outcomes, the causal argument chain can be completed:



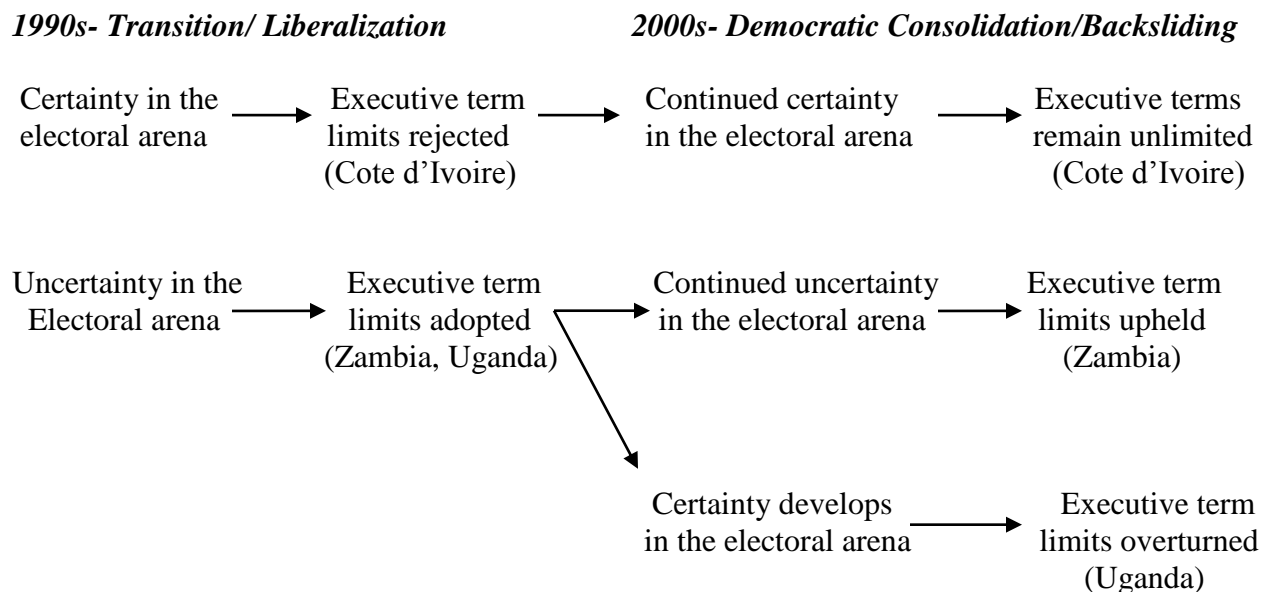
Conclusion

In short, in both the early-mid 1990s when sub-Saharan African countries were transitioning from single-party authoritarian regimes to multi-party dispensations and ten years later as the first presidents of the multi-party era began to reach the end of their second terms in office, variation in the relative strength of the incumbent party vis-à-vis opposition forces lead to the adoption or enforcement of executive term limits in some countries but the rejection or contravention of such limits in others. Recent changes or trends in relative party strength viewed within the larger context of historical patterns of party completion in sub-Saharan Africa lead incumbent party elites to draw on their perceptions of the threat of replacement and ease of switching parties to decide whether to favor or reject a constitutional clause stipulating a limit on the number of times one person can serve as national president. The perceptions of the threat of replacement impact actors' outcome preference- the term limit status they hope is ultimately chosen by the legislature based on their personal and professional interests- by revealing to actors the risks and consequences associated with each term limit choice. However, collective decisions such as these legislative votes on term limit laws also necessitate that actors form an

action preference- how they wish to be seen as behaving by the other relevant actors. Due to this dimension of the decision, actors also draw upon their perception of the ease of switching parties in order to determine the likelihood they could run for and win re-election with another party in the event that their own party leadership or constituencies should punish them for following an outcome preference that deviates from their own preferred outcome.

One final note worth mentioning is that, even though the two time periods considered in this project can be examined separately from each other, linking them together clearly demonstrates how changes in the level of uncertainty in the electoral arena due to the balance of party strength plays a similar role over time in the design, enforcement *and* change of institutional constraints on political power, as illustrated in Figure 2.1. During the transition to

Figure 2.1: Levels of Uncertainty as the Link between Time Periods 1 and 2



multi-party competition in time period one, the electoral arena was highly uncertain because it was very difficult for elites in most countries to predict how strong newly-formed opposition parties would be in head-to-head elections against long-term incumbents. Due to this uncertainty, 36 out of the 40 sub-Saharan countries that fit the parameters of this study adopted executive term limits into their constitutions in order to hedge their bets, so to speak, and regulate future political competition in such a way that could allow them to re-capture the presidency in the long term if they lost it in the short term. Ten years later, it was the fifteen countries that continued to experience high levels of uncertainty in the political arena, due to a continued or shifting balance of power within the party system, where term limits were upheld and the first presidents from the multi-party era stepped down from power. However, in another group of eleven countries, the initial uncertainty of the transition period has given way to a party system that is dominated by one party to such an extent that it is clear that this party will continue to win elections into the foreseeable future. In these countries, executive term limits have been lifted because the reason they were adopted in the first place (to protect a party in the event of replacement) no longer exists. In this way, the institution of executive term limits cannot be described as exogenously regulating the behavior of political elites in the sub-Saharan African context in either time period. Rather, in these cases, executive term limits are endogenous to and shaped by the political realities on the ground. The linkages between the two time periods is depicted in the following flowchart, with reference to Uganda, Zambia, and Cote d'Ivoire the three main country case studies that will be explored in the subsequent chapters.

CHAPTER 3

ADOPTING OR REJECTING CONSTRAINTS ON EXECUTIVE POWER

After three decades of largely unchecked presidential rule, thirty-four African nations adopted executive term limits almost simultaneously in the early 1990s. By and large, these limits were adopted not by newly-elected democratic governments following the first multi-party elections, but by incumbent single party regimes lead by executive who had been at the helm of the government for many years prior to the first electoral contests. Why would such long-standing presidents suddenly acquiesce to term limits being placed on their own office? How did these governments come to choose the limits on executive power that they did? Finally, why did a handful of governments resist adopting term limits despite the region-wide trend to incorporate them into liberalized constitutions?

Executive term limits were generally adopted by sub-Saharan African governments in the wake of their acquiescence to popular calls for multi-party elections. At first glance, it may seem as if their implementation must be the result of a diffusion process in which the idea of term limits as an innovation was spread either to Africa from other liberalizing regions (Eastern Europe most notably) or between sub-Saharan countries themselves. Or, alternatively, one might surmise that the widespread adoption must have been driven by imposed foreign donor conditionalities that tied continued aid to democratic reforms. However, just as it has been maintained that the protest movements that arose across sub-Saharan Africa in the early 1990s and the responses by incumbent governments to these protests were not primarily driven by a

diffusion process or other foreign interventions,¹²¹ this analysis will argue that the available evidence does not primarily support a diffusion hypothesis or a donor pressure thesis in the case of term limit adoption by sitting governments. Rather, as the case studies in this chapter will demonstrate, the decision whether or not to implement restrictions on executive tenure were generally made within the ruling party itself irrespective of any outside pressures or influence in an attempt to structure political competition in such a way as to ensure their continued competitiveness in the new, uncertain, multi-party electoral environment, as described in the previous chapter.

To set the stage, this chapter will open with a brief history of the status of executive term limits as a feature of African constitutions since independence. This will be followed by an examination of possible explanation for the widespread adoption of term limits for the first time by a number of African countries in the early 1990s, including arguments regarding diffusion processes, donor pressures and political pacting arguments. Finding all of these hypotheses to be unsatisfying, an explanation will be forwarded that links variations in the strength of the authoritarian incumbent regime relative to the nascent opposition (and the potential threat of replacement this level of competition can engender) to different term limit adoption decisions. Finally, case studies of Zambia and Cote d'Ivoire will explore exactly how the relative balance of power between the incumbent and opposition parties drove elite actors to embrace term limits in Zambia but reject their implementation in Cote d'Ivoire.

The History of Term Limit Adoption in Sub-Saharan Africa

The democratic constitutions adopted by African nations following independence in the 1960s were largely modeled on European systems of governance and featured either a

¹²¹ Bratton and van de Walle, 1997, p 136-138

parliamentary (former British colonies) or semi-presidential (former French colonies) arrangements. As in the United Kingdom and the French Fifth Republic, these new African constitutions did not place a limit on the number of terms the national executive could serve.¹²² Even after presidential or hybrid systems were widely embraced during the single-party regimes of the 1970 and 1980s, term limits were not part of the set of institutions that the vast majority of these regimes decided to promulgate within amended constitutions. However, following the post-independence period, a time when many countries had long been ruled by one-party systems and domineering “presidents-for-life,” a wave of liberalization washed over sub-Saharan Africa in the early 1990s. During this period, multi-party politics was restored to almost every country on the continent and more than thirty African states adopted executive term limits into their national constitutions.¹²³ In fact, by 1994, of the thirty-seven constitutions in force across sub-Saharan Africa, executive term limits featured in all but four¹²⁴ (although this statistic includes countries that retained parliamentary systems but still implemented term limits, which are not part of the present study)¹²⁵. Currently, of the sub-Saharan countries with presidential systems of government, thirty-five have adopted term limits at some point in their recent constitutional histories, although some quite later than the early 1990s,¹²⁶ while four have never adopted such limits and one (Comoros) has developed a unique “rotating presidency.” See Table 3.1 below for the complete data list.

¹²²Hatchard, J, Ndulo, M, and Slinn, P. 2004. *Comparative Constitutionalism and Good Governance in the Commonwealth: An Eastern and Southern African Perspective*. Cambridge: Cambridge University Press, p. 63.

¹²³ Posner, Daniel and Daniel J. Young. 2007. “The Institutionalization of Political Power in Africa,” *Journal of Democracy*, Vol. 18,3: 126-140.

¹²⁴ Bratton and van de Walle, 1997: 113.

¹²⁵ Sub-Saharan African countries not included in the sample include parliamentary regimes (South Africa, Botswana, Ethiopia, Lesotho and Mauritius), monarchies (Swaziland), and failed states (Somalia).

¹²⁶ I term countries that adopted term limits after 1997 as “late adopters” that were temporally separate from the cluster of term limit adoptions in the early 1990s. The decision to draw the line at 1997 was due to the fact that all adoptions that occurred after 1997 were done by governments that came into power years after the liberalization of the early 1990s, and are thus in a different class from the incumbent leaders in office in 1989/90 at the advent of the democratization movements.

Table 3.1: Term Limit Adoption by Country, Year and Leader

Country	Term Limit Adopted?	Year Adopted ¹²⁷	President at time of term limit adoption (tenure in office)
Congo-Brazzaville	yes	1963;1992;2002	Massamba-Debat (1963-68); transitional gov't headed by Milongo (1991-92); Sassou Nguesso (97-present)
Sierra Leone	yes	1978; 1991	Stevens (1971-1985); Momoh (1985-1992)
Nigeria	yes	1979	Obasanjo (1976-1979)
Tanzania	yes	1984	Nyerere (1964-1985)
Liberia	yes	1986	Doe (1980-1990)
Benin	yes	1990	National Conference
Guinea	yes	1990	Conte (1984- present)
Mozambique	yes	1990	Chissano (1986-2005)
Sao Tome & Principe	yes	1990	Pinto da Costa (1975-1991)
Namibia	yes	1990	Nujoma (1990-2005)
Burkina Faso	yes	1991; 2000	Compaoré (1987-present)
Gabon	yes	1991	National Conference
Kenya	yes	1991	Moi (1978 - 2002)
Senegal	yes	1991; 2001	Diouf (1981-2000); Wade (2000- present)
Zambia	yes	1991	Kaunda (1964-1991); Chiluba(1991-2001)
Rwanda	yes	1991	Habyarimana (1973-1994)
Angola	yes	1992	dos Santos (1979-present)
Burundi	yes	1992	Buyoya (1987-1993)
Djibouti	yes	1992	Hassan Aptidon (1977 -1999)
Ghana	yes	1992	Rawlings (1981-2001)
Madagascar	yes	1992	Ratsiraka (1975 until 1993)
Mali	yes	1992	Transitional govt lead by Toure (1991- 92)
Togo	yes	1992	National Conference
Cape Verde	yes	1992	Monteiro (1991-2001)
Seychelles	yes	1993	Rene (1977-2004)
CAR	yes	1994; 2004	Patassé (1993-2003); Bozizé (2003-present)
Malawi	yes	1994	Banda (1961 to 1994)
Uganda	yes	1995	Museveni (1986-present)
Cameroon	yes*	1996	Biya (1982-present))
Chad	yes*	1996	Deby (1990-present)
Eritrea	yes	1997	Afwerki (1993- present)
Niger	yes (late)*	1999	Transitional Govt lead by Wanke (1999) ((1999(President)/Mayaki (PM) (1999)
Côte d'Ivoire	yes (late)*	2000	Transitional Govt lead by Guéi (1999-2000)
Congo- Kinshasa	yes (late)	2005	Joseph Kabila (2001-present)
Mauritania	yes (late)*	2006	Transitional Govt lead by Vall (2005-2007)
Comoros	no (rotating prez)	n/a	

¹²⁷ Countries with multiple data-points in the “year” column are cases where term limits were adopted, dropped and then readopted in subsequent years.

Equatorial Guinea	no	n/a	
The Gambia	no	n/a	
Guinea-Bissau	no	n/a	
Zimbabwe	no	n/a	

*Countries that held at least one multi-party election before adopting term limits.

Generally, the constitutional amendments that introduced executive term limits into African polities stipulate that African presidents are limited to two five-year terms for a total of ten years in office. However, there is some variation: the constitution of Seychelles specifies a three-term limit while Nigerian presidents may serve two terms of only four-year each, for example. Upon completion of their final term in office, presidents are constitutionally mandated not to seek re-election and to step down from power once a successor is elected.

A few interesting trends emerge from the data in Table 3.1 that are worth highlighting. First, there is significant clustering in the “year adopted” column around the early 1990s, with more than two-thirds of all term limit adoptions occurring between the years 1990-1994. This begs the question as to why so many countries in the region would choose to adopt executive term limits all within the same narrow time period. Was there something occurring in this period that made the adoption of term limits a strategy that made sense for so many countries independently of each other?

Second, a comparison between the “year adopted” data and the tenure in office of the “president at the time of adoption” reveal that, in the majority of cases, term limits were adopted by sitting presidents, many of whom were members of the old-guard who had ruled since the nineteen-eighties, seventies or even sixties, rather than newly elected “democratic” leaders, transitional governments or national conferences. At first, one might have presumed that such power-restricting measures would have been adopted by the new governments that came into power through multi-party elections rather than by the old autocrats who had already enjoyed the

fruits of long stays in power. However, out of 35 instances of term limit adoption in sub-Saharan African between 1963 and the present, leaders who were newly elected under a multi-party system were at the helm in only four cases, interim or transition governments account for another five cases, sovereign national conferences implement term limits in three cases, and the remaining 23 cases of term limit adoption occurred while the old-guard, big-men, autocrats were still in office before the reintroduction of multi-party politics had taken place. Some of these leaders had already ruled their respective countries for decades including Banda, who had ruled Malawi for 30 years, Kaunda in Zambia, who was on his 27 year as president, and Moi, who had served as the Kenyan executive for thirteen years. Why each of these men would, after all of this time, suddenly want to impose set term limits on their tenure in office is thus a source of curiosity.

Assessing Possible Explanations

Three arguments are often forwarded to explain the shape institutions take during a process of liberalization: 1) the force of political pacts; 2) the pressure applied by donor conditionalities; and 3) the power of diffusion. There is evidence of the role that pact-making between incumbent military regimes and pro-democratic opposition forces played in determining the nature of the new political rules in 1970s Latin America and the role diffusion played in shaping the structure of post-communist governments in Eastern Europe in the late 1980s/early 1990s. Furthermore, documented shifts in the policies of international aid donors such as the United States, United Kingdom and the European Community in the early 1990s demonstrates that many donors explicitly aimed to encourage liberal reforms in recipient countries, including many African nations. However, evidence presented below demonstrates that none of these

explanations can sufficiently account for the trend of term limit adoptions across sub-Saharan African in the first half of the 1990s.

Pacts between Incumbent and Opposition Elites

First, pacts or roundtable agreements made between the weakened incumbent government and emerging opposition forces were essential features in transitions towards democracy in both Latin America and Eastern Europe.¹²⁸ Pacts are defined as “explicit (though not always public) agreements between contending actors, which define the rules of governance on the basis of mutual guarantees for the ‘vital interests’ of those involved.”¹²⁹ However, a lack of a pact-making process in most liberalizing African countries precludes this line of argumentation from proving satisfactory in the sub-Saharan context. Decisions on the shape of constitutional reforms across Africa were generally undertaken either unilaterally within the incumbent party circles in eastern and southern Africa¹³⁰ or by national conferences made up of a mix of opposition, civil society and government delegations that had declared themselves sovereign.¹³¹ Though in theory these national conferences brought together various interests to negotiate new political dispensations, the reality was that most conferences were either so controlled by the sitting government (i.e. Togo, Gabon, Guinea) or so dominated by civil society and opposition groups (Benin, Niger) that they cannot really be considered negotiations between sides but rather impositions of the more powerful actor over the weaker. Even in countries like Zambia where there was some dialogue between the incumbent UNIP party and the nascent

¹²⁸ Karl, Terry Lynn and Schmitter, Philippe C. 1991. "Modes of transition in Latin America, Southern and Eastern Europe," *International Social Science Journal*, 43, 2: 269-284

¹²⁹ Karl, Terry Lynn. 1990. "Dilemmas of Democratization in Latin America," *Comparative Politics*, 23,1: 9.

¹³⁰ Bratton and van de Walle, 1997, p. 112

¹³¹ Robinson, Pearl T. 1994. "The National Conference Phenomenon in Francophone Africa," *Comparative Studies in Society and History*, Vol. 36, 3: 575-610

MMD organization about constitutional reforms, available evidence suggests that the issue of term limits was not a priority for opposition parties¹³² and was, therefore, not the subject of negotiations. In sum, a pacting explanations does not provide much analytical leverage for understanding the patterns of executive tenure constraint choices in sub-Saharan African cases.

Donor Pressures

Second, developed countries principally extend or withhold foreign aid to developing countries in order to influence the course of their political and economic progress. Leaders in the heavily aid-reliant sub-Saharan African region have learned that western donor aid is often tied to conditionalities, and thus the logic goes that the meeting of these conditions will result in additional aid being extended. This way of thinking about term limit adoption as incentive-driven echoes the explanation Hyde forwards to explain why leaders invite election monitors to observe elections in which they plan to cheat. In the case of inviting election observers, she finds that presidents largely acquiesced to this norm as “a strategic response... to maximize their share of international benefits.”¹³³ As the value of being recognized as a democratizing country increased (i.e. democratizing countries were thought to receive more international aid), leaders saw the incentive in invite observers.

However, there is scant evidence of pressure being put on African leaders from foreign governmental donors, international organizations or NGOs regarding the matter of term limits in specific. Economic conditionalities were the common driver of donor aid in the early 1990s as the liberalization movement began in sub-Saharan Africa. In an interview in February 1990, Herman

¹³² The 1991 MMD party manifesto (which details political reforms the MMD promised to undertake if elected) does not mention the implementation of limits on executive tenure. See Movement for Multi-Party Democracy. 1991. “Manifesto,” Lusaka: Campaign Committee, MMD.

¹³³ Hyde, Susan D. 2011. “Catch Us If You Can: Election Monitoring and International Norm Diffusion.” *American Journal of Political Science*. 55, 2.: 364.

Cohen, the then U.S. Assistant Secretary of State for African Affairs proclaimed that “we tie our aid essentially to economic policy in Africa. That is priority number one... Now in terms of democratization... this might be a part of our aid policy in the future but it is not at this point.”¹³⁴

To the extent that western donor conditionalities did become focused on issues of democracy and “good governance” later in the decade, donors were more likely to recommend general political liberalization rather than specific constitutional provisions such as laws on presidential tenure. First hand analysis of United States Agency for International Development’s (USAID) “Democracy and Governance 1991 Policy” Statement demonstrates this clearly. USAID’s “Democracy Initiative,” unveiled in November 1991, was USAID’s master plan for democracy promotion during the immediate post-Cold War period, a period that saw a worldwide explosion of democratic reform from Eastern Europe to Africa to parts of Asia. Already by November 1991, ten African countries had adopted term limits during the decade (that number jumps to 16 if the countries that adopted term limits in the 1960s-80s are included), suggesting that donor pressure did not play a role in these early adoptions. Even in countries that had not yet adopted term limits by November 1991, there is little evidence that meeting donor conditionalities drove African countries to implement restrictions on executive tenure. The “Democracy Initiative” identified four primary areas of focus for its democracy promotion work, the third of which, “Promoting Lawful Governance,” endorses the establishment of formal constraints on government officials. However, the specific activities pursued by USAID under this program do not include the promotion of term limits as a strategy to constrain executive power. Instead, the official activities sanctioned under the “Promoting Lawful Governance” program that aim to impose constraints on civil servants are as follows:

¹³⁴ “Bush Messenger” *West Africa*. 12-18 February, 1990. p. 208. At the time this interview was conducted, Namibia was the only African country that had adopted term limits in the 1990s.

Accountability of the executive branch, including activities such as:

- Support establishment of ombudsmen
- Improve procedures for public review of administrative decisions and actions
- Strengthen procedures for financial accountability
- Improve measures to reduce corruption
- Strengthen capacity of civil authorities to monitor and oversee military budgets and systems¹³⁵

As written, the above policy points fall well short of advocating the espousal of specific institutional arrangements (such as term limits) and instead promote rather vague “improvements” to various oversight procedures. This seems to be an intentional strategy by USAID as later in the 1991 Policy Statement there is an explicit declaration that:

USAID's commitment to strengthening democratic political development does not imply any standardized institutional model. Many different institutional arrangements can sustain democratic practices and values, guarantee basic human rights and encourage good governance.¹³⁶

Since, as mentioned above, executive term limits are not required in a democratic system, linking the imposition of such limits to donor funding would *especially* contradict USAID’s policy not to advocate a certain democratic institutional design to recipient countries.

In terms of the incentives side of foreign aid, a quick review of actual foreign donor disbursements to African recipient countries also provides no evidence that governments’ hope of receiving additional donor aid was a driving force behind the adoption of term limits in Africa. Annual data from the OECD Development Assistance Committee on total “official development assistance” from all OECD countries to the thirty-five sub-Saharan African states that have adopted executive term limits since 1990 demonstrates that there is little promise of financial

¹³⁵ United States Agency for International Development. 1991. *Democracy and Governance: USAID Policy*. Washington, D.C.: USAID, p. 10.

¹³⁶ *Ibid*, p. 17

gain for countries that implement such restrictions on presidential tenure.¹³⁷ Tracking the directional change in total donor funding between the year term limits were first adopted (t) and the following year ($t+1$), the OECD data reveals that 19 countries (54%) saw an increase in donor funding a year after adopting executive term limits while 16 countries (46%) actually saw a decrease in their funding (up to a \$90 million loss as in Kenya). In addition, some countries that to this day have not adopted executive term limits, such as The Gambia, Guinea-Bissau, and (early-Mugabe) Zimbabwe, saw similar patterns of rises and falls in their donor aid levels over time as did countries that had imposed term limits on their presidents. In fact, in terms of precedent setting and “learning” by other leaders, of the three countries who were the earliest term limit adopters, two saw their funding fall the year after adopting such limits (Tanzania by \$40 million and Liberia by \$18 million) while one (Nigeria) saw its funding increase, but only by a relatively paltry \$7 million. Therefore, it can reasonably be concluded that it was not direct donor pressure or expectations of receiving additional aid in return for the adoption of term limits that convinced African leaders to adopt such constraints on their power.

Diffusion Processes

Finally, in order to explain the periodic spatial-temporal spreading of political phenomenon across countries such as waves of democracy or clusters of policy adoption, scholars often draw on the concept of *diffusion*. At first glance, a diffusion hypothesis certainly seems to be a plausible explanation for the widespread assumption of executive term limits by sub-Saharan African states between the early to mid-1990s, and is thus worth exploring in some detail. The exact meaning of diffusion is contested, with some defining it primarily in terms of

¹³⁷ Organization for Economic Cooperation and Development. *Development Assistance Committee Database*, part of the International Development Statistics (IDS) Online Databases: www.oecd.org/dac/stats/idsonline. Accessed 1/22/2010

an *outcome*, such as “any pattern of successive adoptions of a policy”¹³⁸ while others define it in terms of a process, including Strang’s early explanation of diffusion as “the process by which the prior adoption of a trait or practice in a population alters the probability of adoption for remaining non-adopters.”¹³⁹ Combining these ideas, here diffusion will be understood as a set of mechanisms and processes that are related to “the spread of some innovation through direct or indirect channels across members of a social system”¹⁴⁰ generally “within a fairly circumscribed period of time.”¹⁴¹

Surprisingly, there have been few studies that have explored the diffusion of specific laws or constitutional clauses among third-wave liberalizers¹⁴² as the majority of diffusion research in this vein seems to focus on democracy writ large as the outcome of diffusion.¹⁴³ As a result, there is little intellectual precedent for devising a falsifiable test to determine when the adoption of similar constitutional provisions can be attributed to a diffusion process or when it is better explained by other factors. Indeed, writing about diffusion studies in general, Brinks and Coppedge lament that

a theoretically sound and empirically well-elaborated test of diffusion is still a rare phenomenon in the literature on democratization. Diffusion processes are notoriously difficult to pin down because it is hard to distinguish true diffusion from illusions of diffusion created by global trends, correlated disturbances, or the regional clustering of domestic factors.¹⁴⁴

¹³⁸ Strang, David, and Sarah A. Soule. 1998. “Diffusion in Organizations and Social Movements: From Hybrid Corn to Poison Pills,” *Annual Review of Sociology* 24:265-90. As cited in Simmons, BA, Elkins Z. 2005. “On Waves, Clusters and Diffusion: A Conceptual Framework,” *Annals of the American Academy of Political and Social Science*. p. 36

¹³⁹ Strang, David. 1991. Adding social structure to diffusion models: An event history framework. *Sociological Methods and Research* 19, 3: 325

¹⁴⁰ Givan, Rebecca Kolins, Kenneth M. Roberts, and Sarah Anne Soule. 2010. *The Diffusion of Social Movements: Actors, Mechanisms, and Political Effects*. Cambridge: Cambridge University Press, p. 1

¹⁴¹ Simmons, BA, Elkins Z. 2005. p. 34

¹⁴² Elkins explores the diffusion of constitutional language across Europe in the first wave of democratization in the 19th Century in Elkins, Zachary. 2010. “Diffusion and the Constitutionalization of Europe,” *Comparative Political Studies*, 43,8: 969-999.

¹⁴³ O’Laughlin, John, et al. 1998. “The Diffusion of Democracy, 1946-1994.” *Annals of the Association of American Geographers*, 88, 4: 545-74.

¹⁴⁴ Brinks, Daniel and Michael Coppedge. 2006. “Diffusion Is No Illusion: Neighbor Emulation in the Third Wave

Bunce and Wolchik address this dilemma by suggesting a two-pronged strategy for evaluating the salience of a diffusion explanation for an observed spreading of a political phenomenon across nearby sites. They maintain that “central to claiming diffusion is the ability, first, to demonstrate that similar innovations appear in staggered fashion in multiple locales, and, second, to explain how and why international transmission occurred.”¹⁴⁵ To these two steps, I add a third, which is to consider the counterfactual- how would domestic actors have behaved in the absence of the occurrence of the phenomenon in nearby polities? When assessed through these three criteria, diffusion seems to play some role in the choice of the exact *language* of the term limit clause in some sub-Saharan constitutions, but does not pass the bar in terms of proof that the *decision* to implement term limits was driven by diffusion rather than being a sensible response to similar domestic conditions in a number of countries.¹⁴⁶

Following Bunce and Wolchik’s first test for diffusion, it is necessary to observe the extent of the spatial-temporal clustering of term limit clauses as an innovation. As Table 1 demonstrates, between 1990-1997, a total of twenty-seven of the forty countries included in the sample considered here first implemented such constraints on executive tenure (with twenty adoptions occurring between 1990-1992 alone,) joining the five African states that had implemented term limits prior to 1990. Spatially, term limits were adopted in every sub-region of the continent- Francophone West Africa, Anglophone East and Southern Africa, tropical

of Democracy." *Comparative Political Studies* 39, 4: 464.

¹⁴⁵ Bunce, Valerie and Sharon Wolchik. 2010. “Transnational Networks, Diffusion Dynamics, and Electoral Change in the Postcommunist World.” In Rebecca Kotlins Givan, Sarah A. Soule, and Kenneth M. Roberts, eds., *The Diffusion of Social Movements: Actors, Mechanisms, and Political Effects*. Cambridge: Cambridge University Press. p. 144.

¹⁴⁶ This analysis of diffusion is restricted to diffusion within and among African states only, and does not address the question of the possibility of the diffusion of the idea of term limits from Eastern Europe or other regions of the world undergoing liberalization around the same time period as sub-Saharan Africa. The reason is there is a much stronger probability that African states will be more influenced by each other than by countries on other continents, which is demonstrated by the fact that most new Eastern European constitutions (i.e. Poland 1989, Hungary 1990) provided for the election of the president by the national assembly, a decision which virtually no African country adopted.

Central Africa, so it certainly was not contained regionally. However, term limits cannot really be considered a new “innovation” in sub-Saharan Africa in the early 1990s. Available constitutional data suggests that term limits were already an available policy choice to African governments before the period of liberalization as five sub-Saharan African countries had already decided to include term limits in their constitutions prior to 1990. Yet, these were not the only countries that had considered such limits prior to liberalization. The recommendations that the 1972 Chona Constitutional Review Commission submitted to the UNIP government in Zambia based on the Commissioners’ consultation with citizens included a suggestion to limit the Zambian president to two-terms of five years.¹⁴⁷ Even though the UNIP government decided to reject that recommendation at the time, the fact that such a measure was publically debated and included in the Chona Commission report demonstrates that the idea of executive term limits was not a new concept in sub-Saharan Africa in the early 1990s.

In addition to these standard spatial-temporal outcome observations, studies of the spread of specific constitutional laws have the advantage of being able to also compare the exact content, both in terms of the exact parameters of the law and the language of the clause as written in the constitution, of the innovation being disseminated. In terms of the parameters of executive term limit laws, all but one African country that adopted executive term limits chose a two-term cap on the presidency (Seychelles has a three-term limit). While the diffusion of the idea of implementing executive term limits between countries does not necessarily mean that a receiving country will embrace the exact same text of the clause in the sending country’s constitution, the presence of direct plagiarism of other state’s term limit provision would bolster the argument in favor of a diffusion process in terms of a diffusion of language of term limit

¹⁴⁷ Republic of Zambia. 1972. *Report of the National Commission on the Establishment of a One-party Participatory Democracy in Zambia (Chona Commission)*. Lusaka: Government Printer.

clauses. Appendix A provides the clause in each country's constitution that stipulates the restrictions on presidential tenure. A comparison between the various clauses in terms of similar word occurrence and ordering shows an interesting divergence: while there are a few exact duplicates (i.e. Gabon and Congo-Brazzaville; Mali and Djibouti) and many close matches in term limit clauses amongst francophone countries, there are no exact matches and fewer close matches among Anglophone and Lusophone states. More specifically, without fail, all francophone countries begin their term limit clauses with the words "Le Président de la République est élu... (The President of the Republic is elected...), and use either the phrase "renouvelable une (seule) fois" (renewable (only) once) or "rééligible une fois" (re-eligible once) to set the limit (note that both phrases focus on *one re-election*). Alternatively, Anglophone and Lusophone countries begin their term limit clauses in a myriad of different ways and are split on whether they convey the two-term limit by specifying *one re-election* like their francophone cousins (Mozambique), stipulate a maximum tenure of *two terms* (Namibia, Ghana), or instruct that candidates are *not eligible for a third term* (Cape Verde, Sao Tome & Principe).

Thus, the textual evidence lends more support to a diffusion of text thesis among Francophone states than between Francophone and Anglophone or among Anglophone countries. This makes sense considering the method by which term limits were added to the constitution in these two groups of countries. Term limits were added to constitutions in many francophone countries by sovereign national conferences, whereas in Anglophone countries they were, by and large, authored within the incumbent party cabinets. Since the francophone conferences were populated by a diverse mix of civil society groups, opposition leaders and government representatives, the constitutional language adopted was necessarily more general in order to satisfy a range of interests, while the Anglophone clauses were much more likely to

idiosyncratically reflect the interests of the party.¹⁴⁸ Furthermore, as novice political leaders, national conference delegates were more likely to look to neighboring country's constitutions for precise language whereas cabinet members were likely more comfortable drafting their own language without needing to borrow from others.

Yet, just because there is some evidence of borrowing of constitutional *language* between a sub-set of African countries, the second and third criterion for diffusion must be explored in order to determine whether the *idea* to implement term limits in these 27 country cases can be attributed to a diffusion hypothesis. Bunce and Wolchik's second test for diffusion calls on the researcher to explain how and why international transmission occurred- namely identify the mechanisms through which the innovation was spread horizontally from one site to another and assess the receptivity or proneness to import of later adopters to prior adopters. Many mechanisms often cited in diffusion studies (competition, coercion, emulation for perceived payoffs from the sender, and structural isomorphism) do not make sense in the case of the spread of executive term limit laws across sub-Saharan Africa as the adoption of such limits in one country is of little consequence to neighboring states either positively or negatively. Nor is there an influential "first case" that should drive mimicry- Namibia was the first country to adopt term limits in 1990, but it's situation (newly emerged from civil war) and its lack of economic or other influence over other states in the region do not provide any compelling reason for other countries to follow suit independent of their own domestic conditions. In addition, little evidence exists for the diffusion of term limit laws through transnational networks, another regularly cited mechanism for diffusion. The implementation of limits on presidential tenure was not a specific demand made by nascent opposition forces, citizen protesters or international donors, all of

¹⁴⁸ For example, the Zambian constitution explicitly notes that the two-term limit would begin afresh for everyone starting with the promulgation of the amendment in order to ensure that President Kaunda (who was then in his sixth term as president) would not be barred from standing in the upcoming elections under the new rule.

whom were more focused on larger and more immediate goals like legalization of opposition parties and the holding of multi-party elections than on the nitty-gritty of constitutional language. Thus, no such network of international civil society leaders or opposition figures who shared practices of advocating for term limits with others abroad existed in sub-Saharan Africa. In addition, there was not likely to be explicit talk of the idea of implementing term limits between governments and sitting presidents. The overarching doctrine of the Organization of African Unity (OAU), the main transnational body that linked governments across the continent in the early 1990s, was one of non-intervention in the affairs of other states and the upholding of sovereign boundaries. As such, there is no documentary evidence of presidents strategizing about domestic constitutional amendments even as many executives were beginning to grapple with how to manage liberalization within their own countries simultaneously. Therefore, it appears that these cases lack a direct exchange of some sort between actors that are central to the way in which diffusion operates in practice.

The only standard mechanism of diffusion that could possibly explain the widespread and nearly simultaneous adoption of term limits among many sub-Saharan states is “learning,” which operates through a receiver looking to others to gather information about conditions of implementation and the costs/benefits of adopting a certain law or policy.¹⁴⁹ Did African governments learn from others about some benefit of embracing term limits? As the interview data from Zambia that will be presented more fully in the next section demonstrates, both former President Kaunda himself and Patrick Mvunga, the head of the 1991 Constitutional Review Commission maintain that the decision to adopt term limits in Zambia was not conditioned in any way by other African countries experience with such constraints. Mvunga asserts that the

¹⁴⁹ Elkins and Simmons, 2005, p. 42

idea of restricting the number of terms a president can serve came from the Zambian population during both the previous CRC in 1972 and during his commission's consultations in 1991.

Kaunda also corroborates that the term limits were "proposed by our experts [the Mvunga Commission], and brought to the central meeting of the party"¹⁵⁰ in a fully internal process.

Evidence from later adopters seems to suggest that what learning did go on was centered more on gathering information about the real uncertainty of the political terrain during the liberalization process in general rather than learning about the advantages and/or drawbacks of the espousal of specific constitutional provisions in response. For example, one observer of the Kenyan transition remarks that, in 1992:

the KANU controlled parliament had amended the constitution to impose a presidential two-term limit for anyone in the future. Given that his brother president, Kenneth Kaunda, had lost in Zambia, it appeared at the time as if Moi would certainly lose the expected election. The two-term limit, therefore, was meant for future presidents, not for Moi, so that no one else would be allowed to serve as long as Moi had served.¹⁵¹

This recounting of the decision by the KANU government to amend the constitution to add a term limit provision implies that, while Kenya learned from Zambia that incumbent leaders were in grave danger of losing their office, the decision to employ term limits as a way to minimize the danger to KANU of an opposition victory in the upcoming polls was a decision made purely within Kenya due to domestic circumstances without reference to the recent adoption of term limit provisions by other states.

Finally, the third approach for determining whether diffusion has taken place is to conduct a counterfactual reasoning exercise. Since diffusion "implies that governments are making choices that they would not make if left to their own devices,"¹⁵² we can ask what other

¹⁵⁰ Author interview with President Kenneth Kaunda, August 8, 2008, Lusaka, Zambia.

¹⁵¹ Munene, Macharia. 2003. "The Kenyan 2002 Election: The Road Travelled, the Lessons Learned," *Wajibu: A Journal of Social and Religious Concern*, 18, 1-2: 7-13.

¹⁵² Elkins and Simmons, 2005, p. 46

possible choices governments could have made in order to achieve the same outcome that enacting term limits produced in the absence of international diffusion. If there were other feasible choices, but all governments chose to adopt term limits instead, this would be evidence for a diffusion thesis. Just as in the Kenyan case mentioned above, the pattern in the timing of the adoption of term limits by incumbent governments, on average just a few months prior to the first multi-party elections, suggests that incumbent governments implemented term limits in order guard against the monopolization of executive power by new opposition parties in the new multi-party era and the future marginalization of their own party. Are there other constitutional rules governments could have enacted or other actions they could have chosen instead of a two term limit that would have produced the same effect?

One standard method for constraining executive power and tenure in general within a political systems is the implementation of a parliamentary form of government where the executive prime minister is elected by the parliament and can be dismissed from office following a no confidence vote. However, this was not a feasible option for African incumbent governments in the early 1990s for two important reasons. First, while parliamentarism had perhaps a greater potential for constraining executive power and tenure than the single-party presidential systems in place across Africa at the time, by no means could it be guaranteed. In an example from sub-Saharan Africa, Botswana had sustained a parliamentary system since independence in 1966, but the Botswana Democratic Party (BDP) had dominated the parliament since the first elections and the first two presidents had retained the confidence of the legislature and remained in office for fourteen and eighteen years, respectively. Therefore, in the early 1990s, incumbent governments saw that adopting a parliamentary system of government was not a fail-safe way to restrict future presidents from retaining office indefinitely or to increase their

own party's chances of re-capturing the presidency in the medium-term should they lose it in the short-term.

Second, switching from a presidential to a parliamentary system of government was not the most practicable option for incumbent governments who had neither the will nor the time to significantly overhaul their national constitutions. As Bratton and van de Walle explain “incumbents generally try to maintain the status quo, adhering as closely as possible to the tailor-made set of... rules that have served them well in the past, countenancing change only to the extent they believe it improves their chances of holding onto power.”¹⁵³ As such, incumbent governments found it much more reasonable to simply add term limits to existing presidential system rather than alter the entire political system to a parliamentary regime.

Apart from inaugurating a parliamentary regime, another way incumbent leaders could have attempted to limit opposition power and bolster their own electoral chances in the multi-party era was to continually rig elections. However, this was also not the most feasible option either as the protest movements that had led to the need to enact constitutional reforms in the first place would have likely have reacted very strongly a rigged election. Furthermore, if only one election was not sufficiently rigged and the opposition managed to capture the presidency, the old incumbent party, once out of office, would lose the ability to rig future elections, thus paving the way for potential unlimited opposition wins in the future. As a result, it is difficult to identify any counterfactual scenario in which African governments would have chosen another method of regulating executive power and tenure in the future other than presidential term limits. Rather, it seems that the widespread introduction of term limits can best be characterized as a common sense response to shared domestic conditions (namely the uncertainty of newly-

¹⁵³ Bratton and van de Walle, 1997, p. 159-160

instituted electoral competition) in a number of countries in the region. Put simply, it was a decision made in concert but independently by sitting governments due to rapidly changing circumstances in the political environment. The following section will present the argument for this explanation and will be followed by the two country case studies which will reinforce the validity of the argument.

The Argument: Relative Strength of the Ruling Party vis-à-vis the Opposition

The probabilistic model of executive constraint selection presented in Chapter 2 can account for the patterns of both adoption and non-adoption of term limits across sub-Saharan Africa in the first half 1990s. Restrictions on executive tenure had a high probability of being implemented in countries in which the transition to multi-party politics created a great deal of uncertainty in the electoral arena for the party currently in government. Where the ruling party sensed it was losing power relative to an increasingly viable opposition, based on both a perception of a high threat of replacement in a future election and a high probability that ruling MPs could switch to a new party and still win elections, the ruling regime would move to adopt term limits, often first decided in the cabinet and then ratified in a vote in the legislature. Implementing such a rule would help to ensure that, should the incumbent party lose the next election, the opposition will not be able to retain the presidency indefinitely. However, in the handful of countries where the ruling party did not feel that they were in danger of losing power vis-à-vis the opposition based on their own calculations given the situation in the country, the regime forwent amending the constitution to include a provision on limited executive tenure. In this way, the decision to adopt or not adopt term limits in new democracies can be seen as being an endogenous reflection of

domestic the balance of power present within a polity at the time of constitution-writing/amending.

Assessing Relative Party Strength

Constructing an empirical measure that captures the relative strength of incumbent and opposition parties *in the run up* to the first multi-party elections in the 1990s across cases is tricky because the standard measures of party competition (for example, the effective number of political parties, fragmentation, and others) cannot be calculated in this instance precisely because there is no prior electoral data from the single-party regimes that can be employed in such calculations. This lack of prior information mirrors the challenge facing incumbent parties of this era- they also had scant clear and reliable information upon which to make their decision regarding term limit adoption. Given this limitation, one strategy is to use the results from the first elections following the re-introduction of multi-party politics in sub-Saharan Africa (the elections held soon after term limits were adopted in the majority of countries) to gauge the strength of the incumbent and opposition parties in the early 1990s. While this, in effect, assesses the strength of the parties after term limit adoption rather than prior to it, the short amount of time that elapsed between term limit adoption and the first multi-party elections in most countries means that electoral returns should fairly accurately reflect the balance of power between incumbent and challenger parties preceding/at the time of the implementation of executive term limits. The hypothesis here is that the stronger the opposition's electoral showing (reflecting a relatively strong opposition vis-à-vis and incumbent), the more likely the country should have been to adopt term limits.

In order to examine this hypothesis, Table 3.2 reveals 1) the date of term limit adoption, 2) date of the first multi-party election held after 1989, 3) countries in which the opposition candidate who secured the most votes in the presidential election came within 20 percentage points of the

incumbent president 4) countries in which the opposition party that secured the most votes in the legislative election came within 20 percentage points of the incumbent party 5) whether or not the election resulted in a turnover of power of the presidency and 6) whether or not term limits were adopted before the first multi-party elections. Despite a few incumbent parties who clearly over- or under-estimated their electoral strength relative to the opposition (i.e. Cameroon and Namibia, respectively), by and large, ruling parties accurately perceived their relative strength vis-à-vis the opposition (as reflected in vote and seat shares won in the first multiparty election results) and decided on term limits accordingly.

In the countries where the ruling party felt they were not susceptible to replacement and thus did not adopt term limits prior to the first multi-party contests in the early 1990s,¹⁵⁴ the sitting presidents polled an average of 61% in the elections, with some such as Houphouet-Boigny of Cote d'Ivoire and Mugabe of Zimbabwe winning over 80% of the vote, while their parties fared even better, winning an average of 71% of the seats in the legislative elections. This is in contrast to parties that did implement term limits prior to the first multi-party elections¹⁵⁵ due to their doubts about their chances of success. In this set of countries, sitting presidents only polled an average of 48% in non-boycotted elections,¹⁵⁶ with some, such as Hastings Banda in Malawi, Didier Ratsiraka in Madagascar and Kenneth Kaunda in Zambia actually confirming their party's

¹⁵⁴ This list includes Cameroon, Central African Republic, Cote d'Ivoire, Equatorial Guinea, The Gambia, Guinea-Bissau, Mauritania and Zimbabwe. Comoros is excluded due to its unique rotating presidency while Cape Verde is currently not included due to a difficulty in obtaining texts of constitutional amendments to exactly determine when term limits were added to the constitution (during the switch to multiparty politics in 1990 or when the constitution was revised in 1992).

¹⁵⁵ This group includes the other 24 countries listed in Table 3.2. Rwanda is not included because, although it adopted executive term limits in 1991 under President Habyarimana and the National Republican Movement for Democracy and Development (MRNDD), the subsequent genocide preventing any elections from being held under the 1991 constitution. Term limit were "re-adopted" in the new 2003 constitution and elections held that same year.

¹⁵⁶ This 48% does not take into account the elections in Burkina Faso and Togo which were boycotted by the main opposition party(ies), and lead to the sitting presidents there capturing an inflated 100% and 96% of the votes, respectively. When these two cases are added into the set, the average vote total in presidential elections in countries where term limits were implemented rises to 55%.

Table 3.2: Relative Party Strength (as Indicated by Electoral Results) and Term Limit Adoption

Country	Date term limits adopted into constitution	Date of first multiparty election in the 1990s	Opposition candidate polls within 20% of incumbent vote share in Presidential election ¹⁵⁷	Opposition party polls within 20% of incumbent seat share in Legislative election	Turnover: Incumbent party loses presidential election	Term Limits adopted before first election?
Cameroon*	n/a	Oct 1992	X			no
Central African Rep*	n/a	Oct 1993	X	X	X	no
Cote d'Ivoire*	n/a	Oct 1990				no
Equatorial Guinea	n/a	Feb 1996				no
The Gambia	n/a	Apr 1992				no
Guinea-Bissau	n/a	Jan 1992	X			no
Mauritania*	n/a	Jan 1992				no
Zimbabwe	n/a	Mar 1990				
Namibia	Feb 1990	Dec 1994				yes
Sao Tome & Principe	Sep 1990	Mar 1991	Incumbent president does not run	X		yes
Mozambique	Nov 1990	Oct 1994	X	X		yes
Benin	Dec 1990	Mar 1991	X	Incumb party doesn't run	X	yes
Guinea	Dec 1990	Dec 1993				yes
Gabon	Mar 1991	Dec 1993				yes
Zambia	Aug 1991	Nov 1991	X	X	X	yes
Senegal	Sep 1991	Feb 1993				yes
Burkina Faso	Jun 1991	Dec 1991	Boycotted by opp			yes
Mali	Jan 1992	Apr 1992	Incumbent president does not run	Incumb party doesn't run		yes
Congo-Brazzaville	Mar 1992	Aug 1992	X	X	X	yes
Burundi	Mar 1992	Jun 1993	X	X	X	yes
Ghana	Apr 1992	Nov 1992		Boycotted by opp		yes
Djibouti	Sep 1992	May 1993		Boycotted by opp		yes
Angola	Aug 1992	Sep 1992	X			yes
Madagascar	Aug 1992	Nov 1992	X	X	X	yes
Kenya	Aug 1992	Dec 1992	X			yes
Togo	Oct 1992	Aug 1993	Boycotted by opp	X		yes
Niger	Jan 1993	Feb 1993	X	X	X	yes
Seychelles	Jun 1993	Jul 1993				yes
Malawi	May 1994	May 1994	X	X	X	yes
Uganda	Sep 1995	May 1996		No-party system		yes
Chad	Mar 1996	Jun 1996				yes
Congo-Kinshasa	Jun 2006	Jul 2006	X			yes

* Countries that adopted term limits at a later date after the first multi-party elections. Furthermore, evidence from CAR suggests that Kolingba was pressured by international donors to hold elections before a constitutional review could be completed. Therefore, it is possible that Kolingba wanted to adopt term limits but did not have the time to do so before the election.

¹⁵⁷ X indicates that the opposition candidate with the highest vote total poll no more than 20 percentage points below the incumbent. This also includes opposition candidates who won a higher percentage of votes than the incumbent. For two-round elections, the second round is assessed, except for CAR where the incumbent Kolingba does not make it to the second round. In this case, the first round results are used to determined categorization.

worst fears and losing the presidency all together. Furthermore, in these same countries, ruling parties who feared replacement won an average of 47% of seats in non-boycotted legislative elections, further demonstrating their correct perceptions of their vulnerability. Overall, elections were much closer in the countries where the incumbent president and party perceived a real challenge to their power and moved to mitigate the danger from this possibility by adopting term limits. It is noteworthy that in the three countries where term limits were not adopted prior to multi-party elections yet the opposition presidential candidate polled within 20 points of the incumbent (Cameroon, CAR and Guinea-Bissau), amendments to add executive term limits were tabled in each parliament prior to the second election.¹⁵⁸ The fact that incumbent parties who had not implemented term limits in advance of the first elections quickly adopted them before the next election *only* in the cases where the ruling party had come close to losing the presidency the first time around (or did lose in the case of CAR) further suggests that it is the level of competitiveness within the party system that determines when incumbent parties do or do not acquiesce to term limits on executive tenure.

Beyond using traditional electorally-based measures to capture levels of party competitiveness, finding one or a set of variables that accurately reflects relative levels of party strength across sub-Saharan cases during liberalization is difficult. This is because the combination of factors that shape relative party strength in one country may not be the same factors that determine party strength in another. For example, while ZANU-PF in Zimbabwe and FRELIMO in Mozambique drew strength from their extensive party structures and loyalty of members constructed during their days as liberation movements,¹⁵⁹ incumbent parties in Kenya

¹⁵⁸ While the amendments passed in all three legislatures, the acting president in Guinea-Bissau at the time, Malam Bacai Sanhá, did not sign the bill into law due to reservations about other amendments passed at the same time. As a result, term limits have not been officially adopted in Guinea-Bissau to this day.

¹⁵⁹ Levitsky and Way, 2010, p. 238-250

and Guinea were able to retain power largely due to a fragmented opposition. Other country-specific factors such as the nature of ethnic cleavages, the content of political protests (i.e. were protesters calling for liberalization within the ruling regime or calling for the end of the regime itself), the degree of control the incumbent has over the military, the nature of the electoral system and the levels of trust voters are willing to place in opposition forces can also combine with each other in various patterns to play a roll. Therefore, attempting to measure the extent of the threat of replacement facing the incumbent party using single-dimension variables such as the frequency of political protest and the number of opposition parties would likely do more to obscure rather than elucidate the puzzle of term limit adoption.¹⁶⁰

Thus, in the remainder of the chapter, specific sources of ruling parties' perceptions of their strength and the strength of nascent opposition parties will be explored through cases studies of Zambia and Cote d'Ivoire. These in-depth investigations of the two countries in the 1990-1991 period aim to flesh out the underlying mechanisms at play in patterns of term limit adoption by exploring questions such as: How did ruling parties assess their likelihood of remaining in power into foreseeable future in the new multi-party era? and Why were executive term limits the chosen response of those parties who did come to have a fear of replacement? During the analysis, factors such as the ruling party's handling of the economic crisis, the constituency linkages parties were able to build, the degree of internal reform undertaken by the incumbent party, the resources

¹⁶⁰ To illustrate the pitfalls of attempting to use the frequency of protests as a proxy measure for the weakness of the incumbent regime, according to Bratton and van De Walle's "Political Regimes and Regime Transitions in Sub-Saharan Africa, 1990-1994" dataset, Cote d'Ivoire faced more than 20 protests while the Seychelles witnessed zero political protests in the 1988-1992 period. This could lead one to assume that the Ivorian regime was weak while the Seychellois regime was strong. Yet, it was the Seychelles government that, fearing replacement, adopted term limits prior to multi-party elections in 1993 while the PDCI-RDA in Cote d'Ivoire felt strong enough to forgo term limits. As the forthcoming case study of Cote d'Ivoire will demonstrate, the protests that did occur, while demanding of expanded political liberalization, were not anti-incumbent in nature. Across the board the correlation between protest frequency and term limit adoption is mixed.

at the disposal of nascent opposition parties and other elements that impact relative party strength will be compared across the two cases.

Cote d'Ivoire and Zambia shared a very similar post-independence trajectory up until 1991. Both were continuously ruled from independence in the early 1960s up until 1990 by the same "benign dictator" president and party, Kenneth Kaunda's United National Independence Party (UNIP) in Zambia and Felix Houphouet-Boigny's Parti Démocratique de la Côte d'Ivoire - Rassemblement Démocratique Africain (PDCI-RDA) in Cote d'Ivoire. As a result, both countries experienced a level of political stability throughout the first thirty years of independence that was rare in a region plagued by military coups and destabilizing power struggles. Both countries built the basis of almost their entire economy on just one export, copper in Zambia, cocoa in Cote d'Ivoire, meaning that both were left highly susceptible to fluctuations in prices for these goods on the world market. Both countries had taken on structural adjustment programs during the 1980s and were in dire economic straits by the end of the decade. Finally, both countries were well connected to others in their region. Through the 1970s and 80s Kaunda in Zambia had supported many liberation movements-come-elected governments in Angola, *Mozambique*, Namibia and Zimbabwe, thus engendering strong links with many Southern African neighbors. At the same time, Cote d'Ivoire's bustling seaport capital of Abidjan has often been considered the "Manhattan of Francophone Africa" and acted as a hub for the sub-region. As part of the CFA zone, it was linked to other countries of the region by a common currency while French publications like *Jeune Afrique* kept Ivoirians up to date with developments across West Africa.

Yet, despite their similar post-independence trajectories, and despite the similarly high levels of economic and political protest that rocked each country in the early 1990s,¹⁶¹ Kaunda's government in Zambia adopted term limits prior to the return to multi-party elections in 1991 whereas Houphouet-Boigny's party chose to contest the 1990 elections with the traditional provisions for unlimited re-election of the executive still on the books. The following detailed analyses of each case show that the cause of this divergence lies in the different levels of relative power the old ruling parties carried into the multi-party era and the differing level of uncertainty this created in the electoral arena in each state.

The Case of Zambia

Zambia is a suitable case to explore because it is an "average" case of term limit adoption. It was the eighth African country to embrace executive term limits following the start of the third wave of democratization in the region in 1989 and the fourteenth country overall to ever adopt term limits in sub-Saharan Africa. This means that Zambia is a relative mid-point adopter and thus free from the added pressure late adopters may have felt to keep up with a well-established trend, but was not braving uncharted territory since a handful of other countries and incumbents had already acceded to term limitations by the time President Kaunda oversaw their inclusion in the Zambia constitution in August of 1991. It is also a country in which the decision to amend the constitution to add term limits was under the control of the incumbent and his party (which occurred in the majority of cases, as mentioned above) rather than the change emanating from a sovereign national conference or a transitional government (as occurred in a minority of

¹⁶¹ Both countries score a 2 on a scale of 0-2 (0= no/little protest, 1= some protest 2= frequent protests) in the "Political Regimes and Regime Transitions in Africa 1910-1994" dataset: Bratton, Michael, and Nicolas van de Walle. Political Regimes and Regime Transitions in Africa, 1910-1994 [Computer file]. ICPSR version. East Lansing, MI: Michigan State University [producer], 1996. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 1997.

cases). Finally, even though international aid and economic variables were shown to be non-causal variables above, Zambia is quite average on these indicators as well, ranking 16th highest out of 46 sub-Saharan African states in GDP per capita in 1989 (the year prior to the beginning of political liberalization across the continent) and ranked 25th out of 46 in official development assistance and international aid received in the same year.¹⁶²

Zambia's independence constitution of 1964 was negotiated at Lancaster House in London between the outgoing colonial authority and independence movement leaders and ratified, not by a Zambian body, but by the British Parliament in July of 1964. This initial document provided for a government that was a "variant of the Westminster System"¹⁶³ whereby the president was both head of state and head of government, all cabinet ministers were drawn from among the members of Parliament and the President could dissolve parliament, but such an act would simultaneously put an end to his own term in office. However, besides this, there were no restrictions on presidential tenure in the independence constitution. Since UNIP held the majority in Parliament following the January 1964 elections, Kaunda, the party leader (in his post as Prime Minister under the former Colonial constitution) became the first president of Zambia upon independence on October 24, 1964.

The multi-party independence constitution did not last for long, however. UNIP, citing rising ethnic tensions, moved to copy other African countries such as Tanzania and Ghana by implementing a one-party state. In 1972, President Kaunda appointed the National Commission on the Establishment of a One Party Participatory Democracy under the chairmanship of then-Vice President Mainza Chona. The Commission's terms of reference were to recommend a new national constitution for the one-party state after gathering submissions from citizens across the

¹⁶² Data from the World Bank World Development Indicators & Global Development Finance Databank: data.worldbank.org

¹⁶³ Tordoff, William. 1974. *Politics in Zambia*. Berkeley: University of California Press.

country. Among the many proposals they put forth, the Chona Commission recommended the establishment of a limit in the consecutive number of terms a President could serve, saying:

WE THEREFORE RECOMMEND—

- (1) that the term of office for a President be five years; and
- (2) that a President be eligible to stand for a second term of five years after which he shall not be eligible to stand as President for a period of at least five years; thereafter he shall be eligible to stand for a new term of five years.¹⁶⁴

However, in the white paper response to the Chona Commission Report, the UNIP government rejected the idea of implementing limits on successive terms for the executive, saying that “whether a man or woman should be allowed to serve his or her country in a high office should be left entirely to the people to decide.”¹⁶⁵ Subsequently, in December of 1972, the National Assembly (minus the opposition parliamentarians who walked out in protest) voted 78 to zero in favor of the new one-party constitution that did not contain a clause on presidential tenure.

By the late 1980s, President Kaunda was facing tough times. Fallen copper values, rising maize meal prices, and faltering state-run enterprises were all contributing to an economic crisis felt throughout the country. Over his nearly three decades in office, Kaunda had steered a country that was relatively prosperous at independence into an acute financial catastrophe. An IMF structural adjustment program implemented in 1983 could not contain the precipitous decline in the Zambian economy. Along with economic crisis also came a political crisis of legitimacy¹⁶⁶ as “ordinary people... concluded that the politics of present leadership, far from offering any prospect for relief from underdevelopment, had deepened it immensely.”¹⁶⁷ A failed coup attempt in July 1990 demonstrated just how unpopular Kaunda had become as there were

¹⁶⁴ Republic of Zambia. 1972. *Report of the National Commission on the Establishment of a One-Party Participatory Democracy in Zambia*. Government Printer: Lusaka. p. 13

¹⁶⁵ Republic of Zambia. 1972. White Paper No. 1. Government Printer: Lusaka.

¹⁶⁶ Bratton. and van de Walle, 1997 p. 100

¹⁶⁷ Ake, 1993; 239

celebrations on the streets of Lusaka when the coup-plotters announced (erroneously) over the radio that they had overthrown the president.¹⁶⁸ Inspired by the mass protests that were toppling governments across Eastern Europe at the time,¹⁶⁹ calls for political and economic reform began in Zambia first in Copperbelt Province (the seat of the Zambian copper and mineral industry) and then spread to other urban centers.

This growing unrest, combined with the fact that the liberation struggles that Kaunda had supported across southern Africa had all been won and “going by what was taking place elsewhere in the world,”¹⁷⁰ eventually lead Kaunda and UNIP to hold a vote in Parliament on the question of legalizing opposition parties. The vote passed unanimously in December of 1990. Furthermore, in September of 1990 Kaunda established the Mvunga Constitutional Review Commission and charged them with proposing ways in which the constitution should be altered to accommodate the new multi-party dispensation. The commission was composed largely of internal UNIP members, Mvunga himself being the then-Solicitor General in the UNIP government. Along with suggesting amendments to the provisions on freedom of association and other articles relevant to political parties, the Mvunga commission also recommended other changes to the constitution, including the adoption of a limit of two terms of five years on presidential tenure. The head of the Commission, Professor Mvunga himself, maintains that the idea to limit the terms of the president came directly from the Zambian citizenry during consultations with first the Chona Commission in 1972 and later his own Commission in 1991. “The people saw a merit in limiting [presidential terms]... Someone gets tired in office, and so

¹⁶⁸ Erdmann, G. & Simutanyi, N. 2003 "Transition in Zambia: The Hybridisation of the Third Republic," Konrad-Adenauer-Stiftung, Occasional Papers Series. Lilongwe, Malawi. p. 10.
http://www.kas.de/db_files/dokumente/7_dokument_dok_pdf_4026_2.pdf

¹⁶⁹ Bratton and van de Walle, 1997, p. 136.

¹⁷⁰ Author interview with Kenneth Kaunda, 8 August, 2008, Lusaka, Zambia.

there is a need for others to contribute to national development.”¹⁷¹ Thus, the proposal that UNIP accede to executive term limits in the constitution became one of many recommendations made by the Mvunga Commission in its final report to the government. President Kaunda corroborates the fact the discussion within the UNIP central committee about limiting executive tenure was initiated when the committee was reviewing the Mvunga Commission report, saying “our lawyers [the Mvunga Commission] proposed [adding term limits to the constitution] and brought it to the central committee of the party...”¹⁷²

President Kaunda’s initial statement may at first make it seem as if UNIP adopted executive term limits simply because the Mvunga Commission members recommended such action. However, if the UNIP government had wanted to disallow the adoption of executive term limits at this temporal juncture, it could have rejected this proposal in their white paper response to the Mvunga commission just as they rejected a number of other suggestions made by the commission (including recommendations that the parliament be able to override a presidential veto and that laws regarding police detention powers be curtailed) and then ensured that the UNIP-dominated parliament voted against any amendments to the clause on presidential tenure. After all, as mentioned above, Kaunda’s administration had rejected a similar proposition to forbid a president from running for more than two consecutive terms put forward by the Chona constitutional review commission in 1972.¹⁷³ Thus, it was not for lack of avenues to oppose the Mvunga commission’s proposition on term limits that lead UNIP to adopt term limits in 1991.

¹⁷¹ Author interview with Professor Patrick Mvunga, 11 August 2008, Lusaka, Zambia.

¹⁷² Author interview with President Kenneth Kaunda, 8 August 2008, Lusaka, Zambia.

¹⁷³ Phiri, B. J. 2001. “Colonial Legacy and the Role of Society in the Creation and Demise of Autocracy in Zambia, 1964-1991,” *Nordic Journal of African Studies*, 10,2: 235.

Furthermore, there was little pressure from the opposition MMD to add a term limit provision to the revised constitution. The MMD was very vocal in its support for certain political reforms such as the re-legalization of opposition parties, requiring ministers to be appointed from the ranks of the National Assembly, the provision for foreign election monitors to observe the 1991 polls and restricting presidential declarations of martial law. Yet, the implementation of term limits was not among the reforms called for by the MMD. Nowhere in the written declarations of the MMD or any of its predecessor bodies (i.e. the “Resolutions” publicized by the July 1990 National Conference on the Multi-party Option¹⁷⁴) is a limited tenure for the executive proposed by the movement. Thus, while there is no evidence that the MMD objected to the two-terms of five years clause when it first appeared in the draft of the new constitution as approved by UNIP, a case cannot be made that UNIP chose to embrace term limits in response to pressure to do so from the MMD like it had given into many other MMD demands mentioned above during the transition period.

Nor did the UNIP government implement term limits or other democratic reforms due to international influences. Kaunda maintains that he did not feel pressure from donor countries or international organizations on the specific issue of executive term limits.¹⁷⁵ Rather, changes in the domestic political environment in the 1990-1991 time period lead various actors within the UNIP government to reassess their preferences on executive constraints, which resulted in the formal adoption of presidential term limits into the constitution by the Parliament in late August of 1991.

The legalization of opposition parties in October of 1990, and the electoral uncertainty that resulted, was the change in the domestic political environment that eventually lead to the

¹⁷⁴ Mbikusita-Lewanika, A. and D. Chitala (eds.) 1990. *The Hour Has Come! Proceedings of the National Conference on the Multi-party Option*. Lusaka: Zambia Research Foundation.

¹⁷⁵ Author interview with President Kenneth Kaunda, 8 August 2008, Lusaka, Zambia.

adoption of executive term limits by the UNIP government. The competition inherent in multi-party elections meant that the threat to Kaunda and the UNIP elites' continued power was no longer from within the party but rather from outside. In the event that the emerging Movement for Multiparty Democracy (MMD) or another newly formed opposition party won the first multi-party election in Zambia in 1991, UNIP *did not* want this party to enjoy unlimited incumbency advantage. Eliminating such an advantage would make it easier for UNIP to re-capture power ten years later and re-assert their ideological policies and also to regain control over the spoils of power.

Speaking with then-President Kaunda it is clear that he personally was nervous about exactly who might gain the top seat in the Zambia government. Specifically, Kaunda worried that “those who might come in the future might have some strange ideas.”¹⁷⁶ Such people should not have the ability to retain power indefinitely. Therefore, he maintains that “we [UNIP] had to trade ourselves”¹⁷⁷ - potentially restrict Kaunda’s tenure as president in order to also limit another party’s tenure at the top. Such a move was necessary in order “to protect against selfish people”¹⁷⁸ who might abuse the office of the presidency for their own personal gains. Kaunda’s sentiment that term limits were necessary because it was highly possible UNIP could lose power in the foreseeable future was reportedly shared by most party members. The proposal was discussed at both the central committee level and the national council level with little debate. Mvunga recalls that “everyone agreed quickly. There was no organized resistance within UNIP to the two term restriction... There were two attempted military coups before this, so in that kind of scenario, the party was very sensitive”¹⁷⁹ to its own growing unpopularity and the very real threat of

¹⁷⁶ *Ibid.*

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*

¹⁷⁹ Author interview with Professor Patrick Mvunga, 11 August 2008, Lusaka, Zambia.

replacement. The only debates regarding executive tenure that *did* go on within UNIP were over whether the executive's term should be five years or seven years (Kaunda himself at first pushed for seven years but the majority in the cabinet endorsed five) and whether the limits should begin in 1991 or be retroactive, which would outlaw Kaunda from standing in the next election (the party decided on the former). Thus, when the draft constitution was put before the National Assembly in August of 1991, parliamentarians overwhelmingly approved the two term limit in order to protect UNIP's chance of regaining the presidency in the increasingly likely chance that Kaunda would lose to Chiluba in the October elections.

This explanation of why his UNIP government came to allow term limits to be added to the Zambian constitution demonstrates an acute awareness within UNIP of the trade-offs between holding power across various time horizons. Kaunda's government was willing to give up the possibility of retaining the presidency indefinitely for the long-term in order to maximize the chance of being able to gain power in the medium term if it is lost in the short term. At the time when the UNIP government accepted the Mvunga commission's recommendation that the executive's tenure be limited to two terms of five years it was not yet known who would win the 1991 presidential election. Kaunda was standing on the UNIP ticket and thus had the opportunity to win the vote and retain the presidency. In this case, the decision to adopt term limits would thus mean that Kaunda had limited himself. Yet, this scenario was, it appears, more acceptable to the UNIP inner circle than leaving presidential tenure open and having the MMD win the presidency and then be able to keep hold of the incumbency advantage indefinitely. In other words, UNIP thought it better to protect the possibility of alternating power with other parties through limited terms than to take the gamble of either losing or winning power that is practically unlimited (due to the strength of incumbency advantage) in the long-term. UNIP

members came to this decision because of their perceptions of the growing weakness of the party and the increasing strength of the MMD, as documented below.

Growing weakness of UNIP

As described above, Zambia was certainly not immune from the popular protests calling for multi-party politics that swept a majority of countries in sub-Saharan Africa in the last decade of the 20th century. However, unlike in Cote d'Ivoire and a number of other countries in the region where ruling parties were able to weather the transition well, the protests in Zambia quickly took on a decidedly anti-UNIP flavor. Kaunda and UNIP's mishandling of the economic crisis, their failure to build enduring linkages with major constituencies and their inability to liberalize internally to the degree demanded by certain members all contributed to UNIP's increasingly weakened state by the early 1990s.

First, UNIP's management of the growing economic crisis throughout the 1970s-1980s created a situation in which all sectors of the population felt they were bearing the brunt of the subsequent austerity measures. The party repeatedly demonstrated a lack of commitment to structural adjustment policies and international financial institutions often cancelled the programs when the Zambian government failed to implement the agreed upon reform targets.¹⁸⁰ As the government's schizophrenic approach to reforms provided no relief, citizens began to blame UNIP for the crisis, and the protests quickly went from pure economic grievances to political grievances and calls for a multi-party system. Soon massive pro-multi-party rallies as large as 200,000 people broke out in Lusaka, which *Africa Confidential* noted were the "first political demonstrations in Africa which have rallied crowds of similar size to those which

¹⁸⁰ Simutanyi, Neo. 1996. "The Politics of Structural Adjustment in Zambia," *Third World Quarterly* 17,4: 825

gathered in Leipzig and Prague to sweep away one-party states in Eastern Europe.”¹⁸¹

Meanwhile, attendance at UNIP rallies was so minimal in comparison that the party cancelled them in order to stave off embarrassment. When citizens started returning their UNIP membership cards by the thousands at the suggestion of multi-party movement leaders, it became increasingly clear to Kaunda and the UNIP leadership that they faced a high threat of replacement from the MMD.

Second, UNIP did not succeed in building a large enough constituency base that would remain loyal to the party even in times of crisis. During their time in power, UNIP pursued a strategy of power accumulation that Riedl defines as “modernization” which entails an “attempt to neutralize traditional elites and replace them with new state-centered organizations.”¹⁸² In contrast to a strategy of incorporation, which encourages traditional elites to stay loyal to the ruling regime during a democratic transition (as in Senegal and Ghana), a strategy of modernization causes traditional elites to be more prone to defect at the onset of liberalization because they feel marginalized by an elite who has eschewed them in favor of groupings that link citizens directly to the party-state such as unions, commercial farmers, business associations and others (as in Benin and Zambia). However, since these interest groups are all primarily concerned with economic matters, once the economic crisis hit Zambia, these groups also chose to defect from the ruling regime. As Riedl maintains, UNIP’s modernization strategy actually laid “the foundations for the opposition movement, creating the trade union that provided financial resources, a national communication infrastructure and a cohesive agenda to what would become leaders of the opposition.”¹⁸³ As a result of defections of both the traditional elite

¹⁸¹“Zambia: The Hour Has Come,” *Africa Confidential*, 12 October 1990, Vol. 31, 20:6.

¹⁸² Riedl, Rachel Beatty. 2008. *Institutions in New Democracies: Variations in African Political Party Systems*. Unpublished dissertation, Princeton University, p. 23.

¹⁸³ *Ibid*, p. 167

and the modern economic interests, by the early 1990s UNIP was left with virtually no constituency outside of its home base of Eastern Province to support the party in upcoming multiparty elections.

Finally, UNIP's failure to reform itself to become a more participatory body meant that it became too rigid an organization to make the necessary changes to retain membership in the multi-party era. As one then-UNIP member observed "a lot of MMD people were former UNIP members. Many felt that participation was curtailed by the one-party structure. If there had not been resistance to demands for democratization within UNIP, MMD would never have been formed."¹⁸⁴ In fact, in the wake of the opening to multipartyism, the UNIP old guard seemed only to tighten control over party activities- holding secret meetings, launching Kaunda's presidential campaign before the 1991 UNIP extraordinary congress (where the party's candidate for the upcoming election would be officially chosen) and placing of "long serving military men and intelligence officers" on the election campaign management committee to "keep tabs on the young recruits whose loyalty to Kaunda may not be total."¹⁸⁵ While a few of the old guard, such as Grey Zulu, were cut from the party's Central Committee at the party congress, most of the posts still went to party veterans rather than young reformers. UNIP's inability to transform itself from inside made winning back popular support very difficult as "everything from potholes, shortages of medicines and other basics and corruption [were] now being blamed on UNIP and the lack of change in its leadership."¹⁸⁶

¹⁸⁴ Author interview with Professor Patrick Mvunga, 11 August 2008, Lusaka, Zambia.

¹⁸⁵ "Zambia: The Government and its Shadow." *Africa Confidential*, 28 June 1991, Vo 132, 13: 6

¹⁸⁶ "Zambia: Little Cheer for Democracy." *African Confidential*, 11 October 1991, Vo. 32, 20: 7

Growing Strength of the MMD

As UNIP's power was deteriorating, the overwhelming crowds drawn to MMD rallies signaled that the opposition movement's popular appeal was on the rise relative to the authoritarian incumbent party. A few key factors relating to the foundations of the MMD helped the party to quickly win widespread support from the population whereas other opposition movements and parties that did not have such foundations, such as the FPI in Cote d'Ivoire, were unable to draw popular favor.

First, the MMD was able to gain popular legitimacy because it was built on structures that were already very familiar to large constituencies in the country such as mineworkers unions and business associations. By building their political movement on the back of the urbanized and well organized unions in both Lusaka and the Copperbelt, the MMD was able to use union infrastructure and resources to provide "an ideology that appealed to the workers, financial resources and communication channels independent of the state, and experienced leadership that had gained a national following due to their bargaining experience speaking for the masses."¹⁸⁷ In addition, the participation of many Zambian church mother bodies in the multi-party struggle (and their implicit endorsement of the MMD) helped build trust for the new party among rural Zambians.

Second, the MMD was also able to gain much popular support because the party was seen as being successful in constructing a broad-based multi-ethnic coalition.¹⁸⁸ While Chiluba himself was a Bemba from Luapula Province, the party leadership was not at all confined to Bembas but comprised all of the country's ethnic groups and regions including Lozis from Western Province (Arthur Wina), Tonga from Southern Province (Vernon Mwaanga), groups

¹⁸⁷ Riedl, 2008, p. 155.

¹⁸⁸ "Zambia: The Hour Has Come," *Africa Confidential*, 12 October 1990, Vol. 31, 20:7.

from Eastern Province (Newstead Zimba), and Lenje from Copperbelt Province (Levy Mwanawasa) among others. Due to its broad leadership base, the MMD was viewed by voters as a national party, not one that favored any particular regional interest over another.

Finally, the fact that the opposition in Zambia coalesced into one main party rather than many small parties also contributed to its strength relative to UNIP. Given the party's multi-ethnic character discussed above, the fact that the MMD was able to serve as a big umbrella and incorporate all pro-multiparty sentiments was key to the party's success. This cohesion meant that the opposition was able to put up just one presidential candidate to challenge Kaunda rather than multiple opposition parties splitting the anti-incumbent vote between them. This is not to say that there were no divisions within the MMD- on the contrary, differences in priorities and preferred strategies between the various factions of the party (i.e. unions, business, intellectuals) began to emerge during the campaign and later resulted in defections from the MMD during Chiluba's first term in office. However, the initial coalescence of all pro-multi-party/anti-UNIP forces into one organization in the 1990-1991 period greatly contributed to the MMD's ability to capture both the presidency and the majority in the National Assembly in the 1991 elections.

Executive Term Limits in Zambia

In response to the UNIP's perception of its own weakness relative to the MMD's growing ability to attract popular support in the early 1990s, the party decided to adopt executive term limits into the revised constitution. As a result, when the new constitution was promulgated on August 24th 1991, Article 35 on the Tenure of the Office of the President stated that:

- (1) Subject to clause (2) and (4) every President shall hold office for a period of five years.
- (2) After the commencement of this Constitution no person who holds or has held office as President for two terms of five years each, shall be eligible for reelection to that office.
- (3) For the purposes of clause (2) the period of two terms of five years each shall be computed from the commencement of this Constitution.

In addition to imposing term limits on the president, the new constitution also repealed the executive's power to impose martial law and introduced a requirement that presidential appointments to posts such as the Attorney General and judges be ratified by the National Assembly,¹⁸⁹ further demonstrating UNIP's nervousness about another party abusing executive power in the future. Had UNIP not faced a very real threat of replacement from the nascent opposition, there would not have been a reason for all levels of the party to approve their addition to the Constitution. Such a scenario did play out in other African countries, including Cote d'Ivoire, which is an interesting case to explore as a comparison.

The Case of Côte d'Ivoire

In many ways, Cote d'Ivoire looked similar to Zambia in 1990. A faltering economy, a political scene dominated by a "founding father" president, and much protest activity in the streets of the capital Abidjan. Among standard economic and aid indicators, Cote d'Ivoire fared similarly to Zambia, ranking 13th highest (next to Zambia's 16th) out of 46 sub-Saharan African states in GDP per capita in 1989 (the year prior to the beginning of political liberalization across the continent) and ranked 32nd out of 46 (Zambia ranked 25th) in official development assistance and international aid received in the same year.¹⁹⁰ Liberalization in Cote d'Ivoire also began relatively early in the decade, just as in Zambia. Yet, despite both countries legalizing opposition parties in 1990, the PDCI-RDA resisted the subsequent adoption of term limits that occurred in Zambia. At the time of Cote d'Ivoire scheduled presidential elections in late October of 1990, a fair number of its West African neighbors had adopted or were in the process of

¹⁸⁹ Ndulo, Muna B. and Kent, Robert B. 1996. "Constitutionalism in Zambia: Past, Present and Future." *Journal of African Law*. Vol. 40,2: 270

¹⁹⁰ Data from the World Bank World Development Indicators & Global Development Finance Databank: data.worldbank.org

approving constitutions containing a two-term limit on the executive. Prior to the 1990s wave of liberalization, neighboring Liberia had implemented executive term limits in 1986 and nearby Sierra Leone had had them in force since 1978. Continuing the trend, Sao Tome and Principe, and island nation southeast of Cote d'Ivoire promulgated a constitution containing a limit on executive tenure in September 1990 while both Benin and Gabon had draft constitutions circulating by the spring of 1990 that included a two-term limit for the president. Therefore, even though Cote d'Ivoire was one of the first countries to hold multi-party elections in the 1990s, the idea of limiting the executive to "two times five years" in office was already a well-known institution in the region. Yet, the PDCI-RDA chose not to include presidential term limits in the Ivorian constitution prior to President Houphouët-Boigny facing challenger Laurent Gbagbo in the 28 October contest, nor did the party implement term limits before the 1995 elections even after Houphouët-Boigny's death.

Upon gaining independence from France in 1960, the National Assembly of Côte d'Ivoire adopted the country's first constitution on October 31st. This constitution, largely a verbatim replica of the 1958 constitution of the Fifth Republic of France, provides for a strong president who is eligible for re-election indefinitely.¹⁹¹ Félix Houphouët-Boigny, already head of government prior to independence, was elected President under the new constitution in November 1960. Even though technically the 1960 constitution did provide for the existence of multiple political parties (see Article 7, an article that remained in force during the entire life of the constitution until 2000), Houphouët-Boigny's Democratic Party of Côte d'Ivoire-African Democratic Rally (PDCI-RDA) party operated as a *de facto* single party state from the very beginning and thus came to completely dominate political life in the small west African nation

¹⁹¹ See Article 9 of the 1960 Constitution "Le président de la République est élu pour cinq ans au suffrage universel direct. Il est rééligible" (translation: The president of the Republic is elected for five years by direct universal suffrage. He is re-eligible.)

up through the 1980s. Between 1960 and 1985 both Houphouët-Boigny' and the PDCI-RDA swept every presidential and national assembly election with 100% of the vote and oversaw a period of relative political stability in a region marred by military coups and short-lived regimes.

The economic policies adopted by the PDCI-RDA at independence, which included a heavy focus on the development of the agricultural sector for export and liberal foreign investment laws, produced double digit growth rates through much of the 1960s and 1970s and precipitated an impressive increase in the country's gross domestic product (GDP) from 145 billion CFA francs in 1960 to 1,750 billion by 1978. With the earnings from cocoa, coffee¹⁹² and other exports supplemented by funds obtained through international loans, the Ivorian government constructed an expansive and highly technocratic state apparatus that notably included parastatal agencies such as the *Caisse de stabilisation et de soutien des prix des produits agricoles* (Agricultural marketing board, CSSPPA) that controlled the country's crop market. By setting legal producer prices for key crops (which reached a high of 400 CFA francs per kilogram of both cocoa and coffee in 1986¹⁹³) and using surpluses in boom years to build a "stabilization fund" to balance bust years, the CSSPPA guaranteed small scale farmers the opportunity to sell their products to the government at consistent and fair market prices. Through this effective state machinery, Côte d'Ivoire was able to do what many other African states dependent on primary exports were not able to manage, namely "control the conditions for both the expansion and extraction of revenue from the peasant and mercantile economy."¹⁹⁴ All of this lead observers to label Côte d'Ivoire a "development miracle" and elevated the country to a middle income country status- an economic oasis in a literal desert of low income neighbors.

¹⁹² In 1986, cocoa and coffee combined accounted for 56% of all Côte d'Ivoire's exports. "Côte d'Ivoire: The Labours of Hercules" *African Confidential*, Vol 31, No. 19, 28 September 1990.

¹⁹³ "Côte d'Ivoire: Unrest Ahead" *Africa Confidential*, 19 April 1991, p. 3

¹⁹⁴ Richard C. Crook. 1990. "Politics, the Cocoa Crisis, and Administration in Côte d'Ivoire." *Journal of Modern African Studies*, Vol. 28, 4: 654

Yet, this Ivorian development miracle began to collapse in the early 1980s as prices for both cocoa and coffee plummeted on the world market. With the disappearance of government export revenues, the government began to default on its foreign debt, private sector companies reliant on state contracts went bankrupt and the banking system was thrown into disarray due to a liquidity crisis. Faced with a severe balance of payments deficit, Côte d'Ivoire became one of the first sub-Saharan African countries to undertake a structural adjustment program (SAP) offered by the World Bank and the IMF in 1981. Despite calls by international financiers to implement government spending reductions as part of the SAP, Houphouët-Boigny retained the 400 CFA francs/kg producer price for cocoa and coffee through July 1989 because of his “historic obligation to the cocoa farmers,”¹⁹⁵ a move that preserved much popular support for himself and the party in the rural areas of the country. However, by mid-1989 the government faced bankruptcy and had to negotiate a fourth SAP with the IMF which demanded steep cuts in the producer price for cocoa and coffee (down to 200 and 100 CFA francs/kg respectively from the previous 400)¹⁹⁶ plus an up to 40% cut in public sector employee wages.¹⁹⁷

As in Zambia, the economic crisis and the subsequent austerity measures soon precipitated popular demonstrations in Abidjan. As Crook maintains, “it was the implementation of the latter provisions [cuts in public sector wages] rather than the attack on farmers’ incomes which triggered the political crisis.”¹⁹⁸ Throughout early 1990, public employees in many sectors from education, utilities, security and transportation threatened to strike if wages were reduced, while student organizations staged marches and the head of the and the Union Générale des Travailleurs de Côte d'Ivoire (UGTCI), the main labor union in the country, refused to

¹⁹⁵ “Conversation in Cocody” *West Africa* (London), 5-11 February 1990, p. 2276-7.

¹⁹⁶ “Cote d'Ivoire: Life After Cocoa.” *Africa Confidential*, Vol 30, No. 21, 20, October 1989.

¹⁹⁷ “Côte d'Ivoire: The Labours of Hercules” *African Confidential*, Vol 31, No. 19, 28 September 1990.

¹⁹⁸ Crook, Richard. 1995. “Cote d'Ivoire: Multi-party Democracy and Political Change.” In John Wiseman, ed, *Democracy and Political Change in Sub-Saharan Africa*. London: Routledge. p.16.

pledge the loyalty of the union members to the government's plan. While the demands of the protesters remained largely economic in nature, some, such as the student's demand for the resignation of Minister of Higher Education Balla Keita and the implementation of a multi-party system,¹⁹⁹ evolved to have a political dimension as well.

Houphouet-Boigny reacted fairly quickly to respond to the popular unrest by implementing new economic and political reforms. On the economic front, in April he appointed Alassane Ouattara, then the governor of the Banque centrale des Etats de l'Afrique de l'Ouest, first as the Chairman of the Interministerial Committee for Coordination of the Stabilization and Economic Recovery Program and later as Prime Minister. As such, Ouattara's "chief task was to redirect the burden of economic readjustment towards the private sector, particularly to those owning private property."²⁰⁰ Political reforms followed later that same month when the political bureau of the PDCI-RDA recommended that opposition parties be allowed to register for and compete in the 1990 elections. While quelling popular unrest was clearly one impetus for Houphouet-Boigny's reversal on his long-held preference for single party rule, Widner contends that he also decided to embrace multi-partyism for a number of strategic and preventative reasons. First, he aimed to channel the discontent of some political elites out of the PDCI-RDA structures "and to pit dissatisfied members of the organizational bourgeoisie against one another, diffusing the attack against the Houphouet state."²⁰¹ Secondly, based on France's role in promoting the switch to multi-party democracy in nearby Benin, Houphouet-Boigny intuited that

¹⁹⁹ Immigration and Refugee Board of Canada. 1991. *Ivory Coast: Current political situation*, 1 June, CIV8987 (www.unhcr.org/refworld/docid/3ae6ac6858.html [accessed 10 June 2011])

²⁰⁰ Fauré, Y. 1993. "Democracy and Realism: Reflections on the Case of Côte d'Ivoire" *Africa*, Vol. 63:3, p. 317.

²⁰¹ Widner, Jennifer. 1991. "The 1990 Elections in Cote d'Ivoire," *Issue: A Journal of Opinion*. Vol 20:1. p. 32

maintaining the single party state could jeopardize Cote d'Ivoire's ability to continue to borrow much needed funds from France to weather the economic crisis.²⁰²

Interestingly, opening up to multi-party politics was simpler in Cote d'Ivoire than Zambia and most other sub-Saharan states because, as mentioned earlier, Cote d'Ivoire was only a *de facto* one-party state- the constitution in force at the time actually provided for the existence of multiple parties under Article 7. Therefore, no constitutional amendment was needed in order to enact the change; an announcement from the President was all that was required. Therefore, it was not necessary in Cote d'Ivoire for the government to initiate a formal constitutional review or for citizens to demand a national conference to re-write the constitution to conform to a multi-party dispensation.²⁰³ As a result, there was virtually no national debate over other possible changes to the political rules of the game such as electoral laws, provisions to detangle the ruling party apparatus from government structures, and limitations on executive power (notably term limits) as there had been in most other African countries in the lead up to the first multi-party elections.²⁰⁴ Thus, when Houphouet-Boigny swept the presidential elections in with 82% of the vote over Ivorian Popular Front's Laurent Gbagbo's 18%²⁰⁵ in October and the PDCI-RDA captured 163 out of 175 seats in the legislative elections in November, most of the old rules still applied.

²⁰² *Ibid.*, p. 36

²⁰³ Some opposition parties such as the Parti Ivoirien des Travailleurs (PIT) did call for a national conference but this never became a widespread demand among the population at large. *West Africa*, 14-20 May, 1990. p.802

²⁰⁴ At first, the fact that no other amendments were made to the Cote d'Ivoire constitution seems to suggest an alternative explanation for the pattern of term limit adoptions/non-adoptions by African countries during this time: that if a country is already doing a constitutional overhaul, term limits are likely to be included, but if no other constitutional changes are being made, countries are unlikely to go through the effort of amending the constitution just for this one change. However, in virtually every other country in which term limits were not adopted, other constitutional amendments were passed, thus discounting this theory. To name a few examples, Guinea-Bissau's parliament amended the constitution to terminate single-party rule and to separate the military from the ruling PAIGC party in May of 1991, but did not use this opportunity to implement term limits at the same time. Similarly, Cameroon legalized opposition parties through constitutional amendment in December 1990.

²⁰⁵ Widner reports that unofficial estimates by Western observers gave Gbagbo thirty to forty percent of the vote but still credited Houphouet with a clear victory. *Ibid.*, p. 31.

Despite the introduction of political competition to the PDCI-RDA in elections, adding executive term limits to the constitution was never seriously considered in Cote d'Ivoire in the early 1990s. The reason, as Widner asserts, is that "it was reasonably certain that the incumbent party and its candidate for president would win the contest."²⁰⁶ Far from being worried about a possible electoral defeat, the main concern within the PDCI-RDA in 1990 was who would be an anointed successor of the aging Houphouet-Boigny in the event that he did not live through his next five year term! Based on all available accounts, placing restrictions on executive tenure was not an idea that was raised or actively debated within the political bureau or other party organs during the PDCI-RDA's time in power. It was not until years later, after the military coup in 1999, that the interim government of General Robert Guei added a two-term limit on the executive to the Ivorian constitution in 2000.

What lead the PDCI-RDA regime to feel so certain that the party would retain the presidency that they were not compelled to adopt executive term limits as a preventative measure like the UNIP in Zambia and countless other incumbent African parties during the period of liberalization? After all, Cote d'Ivoire was facing similar levels of economic difficulty, domestic pressures and popular protests that caused a great deal of uncertainty in so many of its sub-Saharan neighbors. Furthermore, adopting term limits would have been *particularly* low cost for the 85 year old Houphouet-Boigny whose failing health implied that it was unlikely he would survive one let alone two additional five year terms in office. Therefore, it is striking that Houphouet-Boigny and the PDCI-RDA felt secure enough in future their hold on power (even if the popular Houphouet-Boigny would no longer at the helm) to forego implementing restrictions on executive tenure in case of an opposition win. Available evidence suggests that the answer

²⁰⁶ *Ibid*, p. 32.

lies in a combination of the continued widespread popular support for the party, Houphouet-Boigny's strategic handling of the economic crisis and the weakness of opposition forces in the country.

Strength of the PDCI-RDA

Despite being in power since 1960, the PDCI-RDA had been able to retain high levels of public support throughout the decades by re-inventing itself at key moments, appealing to important constituencies, and maintaining high levels of economic prosperity and political stability relative to other countries in the West African region. Through the liberalization period Houphouet-Boigny, warmly referred to as “Le Vieux” (Old Man) by citizens, enjoyed “continued popularity... [and] genuine support, unlike much of the old discredited political class”²⁰⁷ in other countries. He and the party were able to retain much popular support due to a particular combination of key policies and strategies implemented both in the past and during the ongoing economic crisis.

First, the government's decision to maintain producer prices for both cocoa and coffee at 400 CFA francs/kg until 1989 delayed the onset of real effects of the economic crisis for workers in the agricultural sector only a year before the 1990 elections. Most farmers had only suffered cuts in their profits for one main planting season, and were thus not yet overly disillusioned with the PDCI-RDA government. For its part, the party's public pronouncements on the cocoa and coffee market crash, including “vehement condemnation of Western ‘speculators’ and fulsome praise for local growers helped minimize popular dissatisfaction”²⁰⁸ among the largest sector of Ivorian society. This is not to say that there was not any discontent among farmers in Cote

²⁰⁷ Faure, 1993, p. 318.

²⁰⁸ Bourke, Gerald. 1990. “Cote d'Ivoire: Fragile Assumptions” *West Africa*, 5-11 February, p. 173.

d'Ivoire- to the contrary, there were scattered demonstrations by cocoa and coffee farmers protesting cuts in payments in 1989-1990. However, the goal of these protests were generally to persuade the PDCI-RDA to adjust their crop pricing policies and stopped short of advocating political reforms or an end to PDCI-RDA rule. Thus, it was evident to Houphouet-Boigny and the party that they retained much popular support in the rural agricultural regions of the country, namely the East, South-East, South, Center-west and South-west regions of Côte d'Ivoire. In addition to farmers, many other groups who staged protests over growing financial hardships likewise kept their demands economic, not political. For example, although some students began to call for the resignation of Houphouet-Boigny and the institution of multi-party democracy during the late February 1990 protests, most students queried were "adamant that their protest concerns poor conditions at the university and is not political."²⁰⁹

Second, the PDCI-RDA had long had a policy of encouraging citizens of nearby countries to emigrate to Cote d'Ivoire to work in the cocoa and coffee plantations. Seeing such high number of immigrants from Burkina Faso, Mali, Guinea, Senegal and other neighboring countries who flowed into Cote d'Ivoire every year made "Ivoirians themselves... aware that conditions in other countries are less desirable, thereby encouraging them to adapt and adjust to the less favourable aspects of their own regime."²¹⁰ In addition, émigrés, who were estimated to comprise between one-quarter to one-third of the Ivorian population by the mid-1980s²¹¹ were afforded the right to vote in Cote d'Ivoire. Since these foreign populations widely viewed the PDCI-RDA as their benefactor, the party could widely count on their electoral support even in

²⁰⁹ Bourke, Gerald. 1990. "Cote d'Ivoire: Students on the March" *West Africa*. 5-11 March 1990, p. 364. However, later student protests in March 1990 seem to have become more political in nature when many protesters carried placards denouncing the PDCI-RDA ("Dateline: Cote d'Ivoire" *West Africa*. 19-25 March 1990, p. 470.)

²¹⁰ Toungara, Jeanne Maddox. 1990. "The Apotheosis of Cote d'Ivoire's Nana Houphouet-Boigny." *Journal of Modern African Studies*, Vol. 28, p. 41.

²¹¹ Ministère de l'économie et de finances, Direction de la statistique, 1984. "Population de la Côte d'Ivoire." Abidjan: Government Printing Office.

multi-party elections as a “civic thank-offering by the immigrants to Houphouet-Boigny for his hospitality.”²¹²

Third, much of the good will that Houphouet-Boigny and the PDCI-RDA retained was due to the government’s handling of the various groups with economic grievances. The PDCI-RDA had a long history, since 1969, of staging “journées de dialogue” (days of dialogue), gatherings at which grievances from individuals and organizations could be presented directly to the President and government/party officials, whenever “the President wishes to explain an important local or domestic policy that may have generated widespread anxiety.”²¹³ Historically, these participatory meetings have helped diffuse tensions, as the aggrieved constituents, “having been given an occasion to voice their frustrations, retreat and consolidate their support for the President.”²¹⁴ Houphouet-Boigny and the PDCI-RDA once again employed a series of journées de dialogue over the 1989-1990 period, meeting with farmers, teachers’ union officials,²¹⁵ army officers,²¹⁶ and other groups to demonstrate to all that the government was committed to addressing their concerns. At one of the largest gatherings in September 1989, after hearing from 23 different groups and individuals about their perceptions of the government’s mismanagement of the economy, the President responded by reshuffling his cabinet to flush out ministers seen as ineffective or corrupt, promising to set up a national committee to address the grievances raised²¹⁷ and vowing to make the party more responsive to the population. By and large, these gatherings helped to reinforce the legitimacy of Houphouet-Boigny’s authority among voters, with *Jeune Afrique* remarking after the September 1989 meetings that the tense

²¹² Crook, Richard. 1997. “Winning Coalitions and Ethno-Regional Politics: The Failure of the Opposition in the 1990 and 1995 Elections in Cote d’Ivoire.” *African Affairs*, 96: 222

²¹³ Toungara, 1990. p. 35.

²¹⁴ *Ibid*, p.35

²¹⁵ *Ibid*, p. 35-36

²¹⁶ Bourke, Gerald. 1990. “Cote d’Ivoire: Up in Arms” *West Africa*. 28 May-3 June, p. 877.

²¹⁷ Bourke, Gerald. 1989. “Cote d’Ivoire: Day of Truth” *West Africa*, 9-15 October, p. 1685, 1702.

dialogues progressed “sans jamais se departir du respect, pour ne pas dire du culte quasi-divin rendu au 'vieux'” (without ever losing respect, if not quasi-divine worship for the ‘old man’).²¹⁸

Finally, the series of reforms undertaken by the PDCI-RDA following the September 1989 dialogues up through the run-up to the election in October 1990 helped the PDCI-RDA retain popular legitimacy by continuing a trend of re-making the party to address key citizen concerns about party officials and functions. Beginning in 1980, when cocoa and coffee prices first started to fall on the world market, Houphouet-Boigny had initiated a series of reforms to implement more democratic practices and expanded avenues for participation within the party in response to growing citizen frustrations with the “old guard” of the party. For example, at the PDCI-RDA’s national congress in 1980, National Assembly elections rules were changed from a system where voters simply voted for a pre-approved list of party candidates to a system where individuals were elected by popular vote in a competitive contest among multiple PDCI-RDA candidates, while in 1985, the creation of village committees and numerous other local-level political positions vastly increased the participatory nature of the one-party system. Toungara reports that, in the years before the wave of democratization in the 1990s, these gradual reforms had afforded the President a “surge of popularity” and showed that both he and the party were “desirous and capable of mobilizing mass support.”²¹⁹

Similarly, the additional reforms undertaken during the 1989-1990 period helped to assuage the population that the PDCI-RDA could continue to be responsive to citizen desires more so than could any of the new opposition forces. Among the reforms enacted in the months

²¹⁸ Jeune Afrique (Paris), 16 October 1987, pp. 29-34.

²¹⁹ Toungara, 1990, p. 42

before the 1990 elections were the naming of a technocratic and neutral outsider, Ouattara,²²⁰ to engineer an economic recovery program, the appointing of younger cadres to important positions in the party leadership and the endorsing of many new candidates in the upcoming elections at the party congress in early October. As a result, only three of the thirty sitting ministers in 1989 stood for re-election in 1990 in an attempt by the party to show that it was rooting out elderly cadres who were seen as corrupt and inefficient by many Ivoirians.²²¹ As Faure observed, these reforms within the PDCI-RDA “proved particularly successful, effectively cutting the ground from under the feet of the opposition”²²² by disproving the opposition’s platform that the party was too dominated by the old guard to re-invent itself in the multi-party environment.

In all, the PDCI-RDA was not compelled to adopt executive term limits into the constitution prior to the 1990 election (or the 1995 election when Henri Konan Bédié was the PDCI-RDA flag bearer following Houphouët-Boigny’s death in 1993) because they felt that the party retained high levels of support amongst the population and also because the party had managed to remain in total control of electoral resources, including a supportive government administration and media. Due to these factors, party members were therefore confident they would win elections into the foreseeable future. The fact that PDCI-RDA rallies during this period attracted more than double the number of participants as opposition party rallies (many of whom were likely people “simply curious about the new political conditions,”²²³ not necessarily supporters of opposition groups) seems to provide clear evidence that this perception was indeed

²²⁰ Only a few months into his appointment, it was being reported that Ouattara had “impressed... the Ivorian public with his no nonsense pronouncements on the virtues of hard work and thrift.” (*African Confidential*, 28 September 1990).

²²¹ Faure, 1993, p. 323

²²² *Ibid.* p. 322-323

²²³ *Ibid.* p. 320. However, as Faure suggests, an alternative reading of the situation is that it was impressive that opposition rallies were able to amass 50% of the crowds that PDCI-RDA rallies attracted because they did not have the organizational resources (i.e. transport, publicity, handouts, etc) that the ruling party did that likely inflated perceptions of the true level of support for the PDCI-RDA.

correct. The strength of the PDCI-RDA was also a function of the weakness of the collective opposition, which is analyzed below.

Weakness of the Opposition

It is difficult to determine whether the nascent opposition parties in Cote d'Ivoire were not able to win support because the PDCI-RDA remained strong or if the PDCI-RDA was able to maintain the upper hand because the opposition itself was inherently weak. Most likely, it is a combination of both situations reinforcing each other in a cyclical way that created the circumscribed position of the opposition parties in Cote d'Ivoire in the early 1990s. Despite the twenty-one registered opposition parties putting their weight behind a single presidential candidate, the Front Populaire Ivoirien's (FPI) Laurent Gbagbo, they were not able to unseat Houphouet-Boigny in the 1990 elections. While the fact that the October presidential elections were held only six months after opposition parties were effectively recognized by the government likely played a role in Gbagbo's decisive defeat, since the FPI was given little time to organize and mount an effective campaign, other factors inherent to the opposition itself also contributed to the electoral outcome.

First, opposition parties found it difficult to gain legitimacy in the eyes of voters. After Gbagbo, a history lecturer at the University of Abidjan and a vocal participant in the Ivorian teachers union, first formed the FPI in 1982, he was called by many in Cote d'Ivoire a "betrayor" and "power hungry" and lacked any type of national, social or political base within the country.²²⁴ Even after opposition parties were officially recognized in 1990, it was difficult for these nascent organizations to win the trust of citizens. One researcher found that

²²⁴ Lumumba-Kosongo T. 2001. "Political Parties and Ruling Governments in Sub-Saharan Africa" in *The Politics and Policies of Sub-Saharan Africa*, Robert Dible, Ed. Lanham, Md: University Press of America. p. 150

leaders of most of the major "democratic left" parties noted in interviews [that] convincing rural voters to cast their ballots for a different party was also a difficult task. Said one USD [Union des Socio-Démocrates] organizer, "In the villages, once the chief decides an issue, his opinion carries, sans debate. That is the system. To establish democratic debate, we need to first sensitize people to a different way of discussing community problems."²²⁵

This experience of Ivoirian opposition parties stands in contrast to the experience the MMD in Zambia where both rural and urban voters were all too eager to break from the ruling party and vote for the opposition in the first multi-party elections. In addition, just being able to reach potential voters in the countryside was doubly difficult for opposition parties in Cote d'Ivoire than for their fellow new parties across the continent due to the sheer expense of transport. During the 1989-1990 time period, gasoline prices in the country had sky rocketed and "a liter of petrol cost more in Cote D'Ivoire than it did almost anywhere else in the world."²²⁶ This made campaigning in rural areas nearly impossible for opposition parties, a fact that is demonstrated by Widner's finding that villagers in a rural area in which she was doing research in August of 1990 (just three months before the presidential election) had never even encountered a member of an opposition party.²²⁷

Second, unlike in Zambia where the opposition coalesced into just one new party, the opposition in Cote d'Ivoire was fragmented, which some observers maintain weakened the opposition's chance of posing a credible challenge to the PDCI-RDA in the 1990 elections. Widner argues that the fact that some degree of outside-the-party opposition was tolerated by the PDCI-RDA during the single-party era (for example, Gbagbo, already a well-known figure for years before the elections, authored many political tracts that were available in the country) "meant that even before the legalization of parties in 1990, there were at least six contenders for power. Predictably, the opening up of political life in early 1990 gave rise to extreme

²²⁵ Widner, 1991, p. 35

²²⁶ *Ibid.*, p. 35

²²⁷ *Ibid.*, p. 35

fragmentation.”²²⁸ Even though all opposition parties did manage to rally behind just one presidential candidate at the last minute, the fact that nineteen parties ran separate candidates in the legislative elections created a situation in which the opposition “presented themselves in a totally uncoordinated fashion-- indeed, in many constituencies opposition candidates spent more energy arguing among themselves than criticising the PDCI. This inevitably split support for the opposition,”²²⁹ who may have fared better if they had formed an alliance. This is not to say that all sub-Saharan countries in which the opposition was fragmented in the first multi-party election lead to an easy victory for the old ruling party; in fact, in countries such as Malawi, Benin, Congo-Brazzaville, long-time leaders and their parties lost power in elections that were contested by four, thirteen and sixteen parties, respectively. However, just as in Cameroon and Kenya, the fracturing of the opposition in Cote d’Ivoire was likely part of the reason for the PDCI-RDA’s easy electoral victory in the first multi-party election. As Widner maintains, the fragmentation of the opposition meant “certain victory for the president and his party. Elections in 1990 posed no threat.”²³⁰ Even opposition candidates seemed to sense this by election time as 110 of the 600 candidates originally registered for the legislative elections in November 1990 defected from opposition parties in the weeks prior to the contest.²³¹

Finally, the most widely recognized opposition party in Cote d’Ivoire in 1990, Gbagbo’s FPI, had difficulty mounting at credible threat of replacement to the PDCI-RDA because of its reputation for being a ethno-regional party and for being willing to engage in violence in order to capture state power. Both of these images alienated large segments of Ivorian voters, thus making it difficult for the FPI to construct a national base of support. By choosing to attempt to

²²⁸ Widner, Jennifer A. 1992. *The Rise of a Party-State in Kenya: From "Harambee!" to "Nyayo!"*. Berkeley: University of California Press. p. 220.

²²⁹ Faure, 1993. p. 321

²³⁰ Widner, 1992. p. 220

²³¹ Faure, 1993, p. 322

discredit the PDCI-RDA regime by claiming it had historically favored the interests of a few large Ivorian groups, namely the Baoule (Houphouet-Boigny's ethnic group), northerners and foreign migrants,²³² the FPI inadvertently painted itself as a champion of center-west (Gbagbo's home Bete region), south-east and south-west regional interests and anti-immigrant. In his analysis of this electoral strategy, Crook opines that

There was no way that the FPI could build a winning national coalition of interests or create a 'national' identity by appealing only to particular ethno-regional minorities and attacking the rest of the population. Even in the multi-ethnic cocoa areas of the far south west, where the economic grievances of farmers as a class group might have formed a basis for a serious challenge to the regime, the FPI was let down by its 'Bete' image.²³³

This “Bete image” was particularly non-attractive to voters of other ethnicities because it has been reported that many Ivoirians have a tendency to view Betes as aggressive, “physical” and even “violent.”²³⁴ This led many citizens to perceive the FPI itself, whose leadership in the early 1990s was largely Bete, and their seemingly xenophobic nationalist campaign platform as “encouraging cultural antagonisms”²³⁵ rather than promoting national unity. As such, the FPI failed to build a national base and in the 1990 elections and only managed to capture the majority of votes in its home-bases of the center-west and some southern prefectures in both the presidential and legislative contests.

Executive Term Limits in Cote d'Ivoire

Due to the PDCI-RDA's perception of its own strength and the opposition's weakness in attracting popular support in the early to mid-1990s, executive term limits were never adopted

²³² Crook, 1997, p. 222.

²³³ *Ibid.*, p. 223.

²³⁴ Lumumba-Kosongo T. 2001, p. 151

²³⁵ Lumumba-Kosongo, 2001, p. 151

during either Houphouet-Boigny's or Bedie's times in office.²³⁶ With few citizens calling for a re-drawing of the political rules prior to the 1990 election (and the opposition FPI party's insistence that the concept of a National Conference to amend the constitution was "dePASSE"²³⁷), the PDCI-RDA was able to keep all of the advantageous laws of the old regime on the books into the multi-party era. It was not until 2000, after Cote d'Ivoire suffered a coup and a transitional government was established under General Guéi that the 1960 constitution was finally redrawn by a broadly-representative Constitutional and Electoral Consultative Commission (CCCE).²³⁸ The CCCE recommended that executive term limits be adopted due to the uncertainty on the part of all political groups as to what the balance of power in the country would look like in the post-coup era. Therefore, all were in favor of implementing restrictions on presidential tenure in order to ensure that their preferred party would have the opportunity to compete for power on a level playing field in the medium to long term even if they lost the October 2000 elections.

Conclusion

The previous analysis has argued that the pattern of term limit adoption/non-adoption that took place during the period of liberalization in the 1990s across sub-Saharan Africa can be explained by variation in the balance of power between sitting governments and nascent opposition forces in the country at the time. In countries where the uncertainty introduced by the return to democratic multi-party politics enabled new opposition parties to pose a serious threat of replacement to the incumbent party, as in Zambia and the majority of African countries,

²³⁶ Bedie won the 1995 presidential election (boycotted by the (FPI) and Rally of the Republicans) with 96% of the vote while the PDCI-RDA 148 of 175 seats in a non-boycotted National Assembly election that same year.

²³⁷ *Ibid.* p. 151

²³⁸ The 27-member CCCE, chaired by, Mathieu Ekra, one of the PDCI's original founders (often called the 'mediator of the Republic'), was made up of representatives from political parties, unions, civil society associations, religious organizations and women's and students' movements.

governments chose to implement executive term limits in order to ensure that no opposition party that won a future election could enjoy unlimited incumbent advantage. Alternatively, in countries like Cote d'Ivoire, Zimbabwe and a handful of others, the sitting governments sensed they were strong enough relative to the opposition to win all elections into the foreseeable future and thus did not need to adopt term limits because there was no risk at their party being disadvantaged by an opposition with unlimited presidential terms. In this way, at the time of adoption, executive term limits can be seen as being *endogenous* institutions that are shaped by the political realities on the ground. This finding reflects the growing sentiment in political science that formal institutions do not just shape political behavior but are themselves shaped by underlying factors such as the balance of power between actors at the time of initial institutional design and implementation. Yet, this leads to a second question regarding whether a later change in the initial conditions that drove term limit adoption should lead to a re-consideration of term limit laws or whether, once adopted, term limit laws remain in force even if the underlying balance of power shifts. The remaining chapters probe this question in detail.

CHAPTER 4

ENFORCING INSTITUTIONS OF CONSTRAINT: ASSESSING EXPLANATIONS

The previous chapter explored the causes of widespread inclusion of term limit clauses into new or amended constitutions across sub-Saharan Africa in the early-mid 1990s due to the heightened uncertainty in many countries during the transition to multi-party politics. However, just because term limits are adopted by a polity does not automatically mean they will be upheld, enforced or generally be able to successfully regulate executive tenure. For as Posner and Young maintain, “although every African country has a constitution as well as a body of laws and administrative procedures that place formal limits on executive power, the long-held consensus among observers is that these rules play very little role in actually constraining leaders’ behavior.”²³⁹ Have the term limit rules implemented during the period of liberalization proved to be effective in subsequently constraining executive tenure across the continent?

The outcome has been decidedly mixed. As the first cohort of sub-Saharan African presidents elected under new multi-party systems reach the end of their constitutionally mandated two terms in office, a two-pronged trend has emerged amongst African polities. Some of these sitting presidents have attempted to amend their national constitutions for the purpose of circumventing these very term limits. In fact, of the twenty-six presidents who have reached the end of their second term in office, eleven have successfully cajoled their legislatures to lift term limits. However, the other fifteen have either lost their bid to abolish term limits or simply stepped down without incident.

²³⁹ Posner and Young, 2007, p. 127.

Why are some presidents constrained by the constitutional two term limit on executive tenure while others are able to circumvent the very same provision in their countries' constitutions? Is there a particular set of conditions that are present in all countries where term limits have been upheld that is absent in the states where term limits were lifted? Does the level of electoral uncertainty created by the relative power of the incumbent vis-a-vis the opposition that lead to term limit adoption in time period one also impact term limit enforcement and stability in time period two, or are there different variables at play? Overall, attempts at term limit abrogation and other breaches of constitutional rules raise the puzzle over why constitution rules, once adopted, seem to be effective arbiters of executive power in Africa in some contexts but not others. As Elkins has written, "A profitable research program would be one dedicated to understanding the conditional impact of constitutions better."²⁴⁰

This chapter intends to answer Elkins' call by examining the variation in term limit adherence across sub-Saharan Africa. Untangling this puzzle will extend our understanding of the limits of constitutionalism in polities where the "rules of the political game are still in contestation,"²⁴¹ as they are in many third wave democracies that underwent a period of liberalization in the 1990s. Indeed, term limit abolition is not just an African phenomenon; leaders from other developing electoral democracies such as Chavez in Venezuela, Nazarbayev in Kazakhstan, Rajapaksa in Sri Lanka, Akaev in Kyrgyzstan, Uribe in Colombia, Lukashenko of Belarus, Saleh in Yemen and Rakhmonov in Tajikistan among others have all found ways to rid their constitutions of limits on executive tenure in recent years. Thus, the aim of this chapter is to use quantitative data to assess a number of different explanatory variables forwarded in the literature

²⁴⁰ Elkins, Zachary. 2010. "Diffusion and the Constitutionalization of Europe," *Comparative Political Studies*, 43,8: 971.

²⁴¹ Schaeffer, Frederic C. 1998. *Democracy in Translation: Understanding Politics in an Unfamiliar Culture*. Ithaca: Cornell University Press.

on constitutional enforcement as a first step toward uncovering the causal story of variations in term limit adherence across the continent.

The chapter will open with the identification of sub-Saharan African countries in which a president has reached the end of the second term in office and divide them into two groups of cases: one group of countries in which term limits did successfully constrain the executive and the president stepped down from office as the constitution stipulated, and the other group of countries in which the parliament voted to lift the term limit clause from the constitution, thereby opening the door for the incumbent president to run for a third term. Often, in cases where term limits were overturned, they were abolished less than ten years after they were first adopted with the blessing of the very same president who oversaw their contravention. This will be followed by an exploration of a number of possible explanations for this variation in term limit adherence. These variables, including level of democracy, relative dependence on donor aid, electoral system rules, and others are assessed against the universe of country/president cases in the region for correlation with term limit outcomes. Given the medium-n sample size and the dichotomous dependent variable, a pairwise correlation calculating significance levels for each variable will be undertaken first in order to pinpoint the variables that correspond the most closely to the pattern of term limit enforcement outcomes. This step will be followed by a logistic regression analysis to further assess significance levels for a smaller set of variable while holding all others constant to measure the strength and direction of the linear relationship between these possible explanatory variables and the outcome of term limit adherence. The relatively small-n universe of cases available for this statistical analysis means that the results are, at best, merely suggestive. Yet, at the same time, the strength of the results given the limited number of observations does signal that the analysis is capturing meaningful relationships between the

variables. In the end, the results of both stages of the analysis point to the competitiveness of the party system in each polity as being a strong predictor of variation in term limit adherence across sub-Saharan Africa while also finding that the trend has a geographic/colonial power component as well, with most term limit contraventions occurring among francophone West African states.

Term Limit Adherence and Contravention Across Sub-Saharan Africa: Taking Stock

Of the thirty-seven African countries with presidential systems included in this study that adopted term limit provisions in during the wave of liberalization in the 1990s, to date twenty-six African executives from twenty-four countries have reached the end of their constitutionally mandated tenure. Of these twenty-six, fourteen of those have campaigned to have term limits abolished so they could run indefinitely. Eleven have been successful in achieving this goal and are now serving their third term (or even a fourth term for some, like Yoweri Museveni of Uganda who won his fourth election in February 2011) while three failed in this endeavor. Yet, the other twelve African leaders who have reached the end of their second term have bucked this trend all together and have quietly stepped down in compliance with their national constitutions. Table 4.1 (below) details these president/country categorizations.

Term limit contravention in sub-Saharan Africa has taken one of two forms, which Maltz terms “hard contravention” and “soft contravention.”²⁴² Hard contravention is when executive term limits are totally eliminated from the national constitution, leaving no restraint on presidential tenure for anyone who may hold the office in the future. The majority of cases of term limit contravention in this analysis are instances of hard contravention. However, Namibia under Nujoma engaged in soft contravention, meaning that term limits are not eliminated from the

²⁴² Gideon Maltz. 2007. “The Case for Presidential Term Limits,” *Journal of Democracy*, 18: 128–42.

Table 4.1: Trends in Term Limit Adherence Across Sub-Saharan Africa

Constitution contains a two-term limit on the presidency (37 countries)			
Two terms not yet served by any president (12 countries)	Two term limit reached by at least one president (26 presidents)		
	No attempt to amend constitution to lift term limit (12 presidents)	Attempt to amend constitution to lift term limits (14 presidents)	
		Attempt not successful (3 presidents)	Attempt successful (11 presidents)
Burundi C.A.R. Comoros Congo-Brazzaville Cote d'Ivoire DRC Liberia Madagascar Mauritania Rwanda Senegal Sudan	Kérékou (Benin) Monteiro(Cape Verde) Rawlings (Ghana) Kufuor (Ghana) Moi (Kenya) Konare (Mali) Chissano (Mozambique) Trovoada (Sao Tome & Principe) Rene (Seychelles) Kabbah (Sierra Leone) Mwinyi (Tanzania) Mkapa (Tanzania)	Muluzi (Malawi) Obasanjo (Nigeria) Chiluba (Zambia)	Compaoré (Burkina Faso) Biya (Cameroon) Deby (Chad) Guelleh (Djibouti) Bongo (Gabon) Conté (Guinea) Nujoma (Namibia) Tandja (Niger) Diouf (Senegal) Eyadema (Togo) Museveni (Uganda)

Figure adapted from Vencovsky, David. 2007. "Presidential Term Limits in Africa" in *Conflict Trends*, Issue 2: 15-21

constitution completely, but the incumbent president is empowered to run for additional terms in office past the original two due to special circumstances, in this case one extra term for Nujoma only.²⁴³

It is clear that abolishing term limits is not simply an ideological policy preference implemented by new governments who enter into power after term limits are first adopted as ten of the fourteen²⁴⁴ presidents who attempted to have term limits abolished from their countries'

²⁴³ Another example of soft contravention occurred in Burkina Faso. While term limits were totally abolished in 1997 under President Compaore, they were reintroduced after the 2000 elections. However, shortly before the 2005 elections the constitutional court ruled that, while Compaore had already served two terms in office, he was allowed to run again because the clock had effectively been "re-set" with the new 2000 constitution. He went on to win re-election in 2005 and 2010.

²⁴⁴ The four exceptions are Muluzi (Malawi), Chiluba (Zambia), Tandja (Niger) and Guelleh (Djibouti)

constitutions were the very same leaders who oversaw the initial adoption of the term limit provisions ten years earlier. In addition, in all but one of the fourteen cases in which term limits laws were challenged (Niger being the exception)²⁴⁵, the final decision regarding the lifting or retaining of limits on executive tenure was accomplished through the appropriate formal legal channel of a constitutional amendment vote in Parliament. In each case, the government would table the bill advocating the removal of the term limit clause from the constitution, parliamentarians would debate its merits and then the Speaker would call a vote. In almost all sub-Saharan countries, a two-thirds majority is needed to amend the constitution. Therefore, just as with the adoption of the two-term rule, members of parliament were ultimately the key actors in the decision whether to adhere to or contravene presidential term limits.

What accounts for this variation in term limit adherence across the continent? In the remainder of this chapter, a quantitative analysis will be undertaken in order to begin exploring a number of possible explanations drawn from the literature on constitutionalism to see if a suitable answer can be found.

Methodology

Before delving into the assessment of possible explanatory variables, a discussion about the data, statistical methods and variables to be employed in the quantitative portion of the dissertation is in order. As mentioned above, the number of relevant country/president cases in the dataset currently stands at 26 (although that number will, over time, increase incrementally as additional African presidents reach the end of their second term in office). The advantage of this dataset is that it captures the full universe of cases of sub-Saharan African presidents who have

²⁴⁵ In Niger, after a constitutional court ruling made clear that altering Article 36, which sets a two term limit for the executive, would be unconstitutional, President Tandja dissolved the parliament and lifted term limits by decree.

reached the end of their constitutionally mandated tenure in office, thereby making the analysis more comprehensive than one that relies on a sample of the full population. However, the medium- n size of the sample makes quantitative assessment less precise than a large- n analysis due to a smaller confidence level, as it is more likely that variable correlation is merely due to chance.

At first glance, it seems that the n could be increased substantially by disaggregating the 26 cases into president/year observations, thereby turning one ten-year presidential tenure into ten observations rather than just one observation in order to set up a hazard model type of analysis. However, there are methodological reasons why increasing the n in this way does not notably improve the analysis. First, dividing each case into president/year observations implies an assumption that term limits are equally likely to be lifted in any year of a given president's tenure, whether it be his first year or ninth year in office. However, in reality, term limits are much more likely to be lifted toward the end of a President's tenure than toward the beginning. In the fourteen cases where term limit contravention was attempted, over 70% of those attempts occurred within 18 months of the end of the president's second term, and 100% of the attempts occurred in during the president's second term. Even in the twelve countries where term limit abolition was not attempted, third-term debates were common only during the second half of the president's final term in office. This implies that reaching the end of a second term in office is a critical juncture that drives the timing of term limit debates and abolition attempts. Before the conclusion of a president's second term, there is no need to consider lifting term limits, and no attempt will be made even if the variables and conditions that ultimately explain successful term limit contravention are already in place. As a result, the number of cases under analysis will be

left at twenty-six, with each case representing a sub-Saharan African president who reaches the conclusion of his or her second²⁴⁶ constitutionally-mandated term in office.

In order to assess a range of possible explanatory variables against the term limit adherence outcome, two statistical tests will be employed in this analysis. First, a simple difference of means analysis (two-tailed t-test) will be performed in order to assess which variables have mean values that differ significantly between the two clusters of term limit upholders and contraveners and to reject any that do not meet this condition. Next, a logistic regression will be performed in order to establish the relationship between term limit adherence and this smaller group of predictor variables in order to gauge the level of significance of each possible explanatory variable when all other variables are held constant. Conventional wisdom holds that the number of predictor variables in the model should be kept to a minimum when the number of observations is small. Accordingly, only the variables that were found to have the strongest relationship with term limit outcomes in the difference of means analysis will be included in the logistic model. Logistic regression is appropriate in this case because the dependent variable of term limit adherence is a binary category.

Variable rationale, sources and coding

The institutional literature on third wave democratizers offers a few different possible explanations for the variation in constitutional strength and enforcement in nascent democracies. The aim of the statistical analysis in this chapter is to determine if any of these explanations provide traction in understanding the variation in executive term limit law adherence across sub-Saharan Africa. This section introduces both the dependent variable of term limit adherence and

²⁴⁶ Or, in the case of the Seychelles, the third term in office as the constitution of the Seychelles mandates a three term limit for the executive.

a number of possible independent explanatory and control variables and discusses data sources and coding of each.

Dependent Variable:

Executive Term Limit Adherence- The dependent variable in this analysis, executive term limit adherence, indicates whether a sitting president who has reached the end of his or her second constitutionally-mandated term in office steps down in accordance with term limit laws or contravenes this law in a way that allows the president to seek additional terms in office. As mentioned above, contravention can take hard (total abolition of executive term limits) or soft (only the current incumbent is allowed to run for additional term(s) due to special circumstances) forms. However, for this analysis, both hard and soft contraventions are treated similarly as a case of non-adherence to executive tenure provisions enshrined in the constitution. Relatedly, a failed contravention attempt (where official action, such as the tabling of a constitutional amendment before the legislature, was taken towards the lifting of executive term limits but term limits were ultimately retained) are counted among the group of term limit adherents.

A country is classified as being a case in which executive term limits have been contravened when an official amendment to the constitution is made removing or altering the established restriction on presidential tenure. These cases will be assigned a value of 0 in the quantitative analysis. Alternatively, instances in which a president steps down at the conclusion of his or her second term in office and is replaced by the winner of the subsequent presidential elections are assigned a value of 1.

Independent Variables:

1. Years Incumbent in Power- Starting with individual-level traits of the incumbent president himself, one possible explanatory variable that touches upon the will and ability of the incumbent president to influence changes to constitutional rules is the length of time the incumbent president has already served in office. In their study of leadership duration, Bienen and van de Walle found that the longer a leader remained in power, the better his chances were of retaining power and concluded that “leaders who stay in power for relatively long periods exit non-constitutionally or die of natural causes much more often than they are removed constitutionally”.²⁴⁷ While there are many dynamics that contribute to leadership duration, in this analysis, the leadership duration variable is used to capture two possible factors that could impact term limit outcomes: 1) the degree of influence and control a president has over the legislature, policymaking and day-to-day politics in his country more generally and 2) whether the leader came to power before or after the re-introduction of multiparty politics in the early 1990s. The assumption is that a president who has been in office many years has had more time to develop a tighter control over political decisions and is also less committed to democratic rules since he ascended to power during the single-party authoritarian era. Alternatively, leaders who have had less time to build networks of political influence and who were elected democratically under an amended constitution that already had in place a two-term limit on the executive would be more likely to willingly step down at the conclusion of their second term. Thus, the hypothesis is that the longer the incumbent president has been in power, the more likely that term limits will be contravened.

²⁴⁷ Bienen, Henry and Nicolas van de Walle. 1991. *Of Time and Power: Leadership Duration in the Modern World*. Palo Alto: Stanford University Press. p. 103

The data on the years in office of each African president in the sample was calculated by the author based on the original date of election of the incumbent president as reported in *Africa South of the Sahara*, various years²⁴⁸ until either the year the president left office (for cases term limit adherence) or the year that term limits were abolished (for cases of term limit contravention).

2. Economic Performance under the Incumbent- One simple answer to the question of why some presidents are able to get executive term limits abolished and others are not could be that success is based on variations in voters' perceptions of the incumbent president's performance. A president who enjoys widespread support should, theoretically, have an easier time getting the rules bent in his favor than a president who does not have a high approval rating. Unfortunately, there is no good measure of presidential approval that spans the universe of sub-Saharan African cases included in this analysis. However, one (imperfect but measureable) proxy for this variable is the degree of economic growth the country has experienced during the incumbent presidents term in office. In a study on incumbent re-election fortunes, Brender and Drazen find that in developing countries "economic growth over the leader's term has a positive effect on the probability of reelection..."²⁴⁹ which mirrors evidence from the World Values Survey that finds that high levels of economic growth is the most important policy priority for citizens of developing countries.²⁵⁰ Assuming that the same logic should hold for presidents pushing for a third term as for presidents running for re-election to a second term, the hypothesis is that executive term limits are more likely to be lifted in sub-Saharan countries that have experienced

²⁴⁸ Europa Publications Limited. 1990-2010. *Africa South of the Sahara*. London: Europa Publications Ltd.

²⁴⁹ Brender, Adi, and Allan Drazen. 2008. "How Do Budget Deficits and Economic Growth Affect Reelection Prospects? Evidence from a Large Panel of Countries." *American Economic Review*, 98, 5: 2208

²⁵⁰ Inglehart, Ronald, et al. 2004. *World Values Surveys and European Values Surveys, 1999–2001*. Ann Arbor, MI: Inter-university Consortium for Political and Social Research. As cited in Brender and Drazen, 2008.

higher levels of economic growth over the president's previous term in office than countries that have experienced little to no growth or economic decline.

In order to build a metric of economic growth that is linked with recent presidential performance, the measure of the annual percentage growth rate of GDP for each country (based on constant 2000 U.S. dollars) is averaged over the years encompassing the incumbent president's second term in office. The "GDP growth (annual %)" indicator from the World Bank World Development Indicators database is employed in order to ensure a uniform measure of growth across sub-Saharan countries.

3. Aid as percentage of GNI- Moving from individual presidential-level variables to macro-level data, the next possible explanation for variation in term limit adherence is differences in current levels of aid dependency across African countries. Observers of African politics such as Richard Joseph have hypothesized that constitutional provisions are often not upheld in the developing world because the rules were only adopted in the first place by governments with little intent to enforce them in order to win favor with international donors.²⁵¹ This logic holds that governments will implement constraining institutions such as executive term limits in time period one when the costs of doing so are low (because they do not come into force until eight to ten years down the line) but the benefits of doing so are high in terms of reaping additional international assistance. Yet, once the incumbent president reaches the end of his second term, these façade institutions are easily scrapped, except perhaps in countries that are extremely aid-dependent. High aid dependency could induce a country to uphold constitutional rules in order to retain their high levels of donor funding. Thus, levels of official development assistance

²⁵¹ Joseph, Richard. 1999. "Africa, 1990-1997: From *Abertura* to Closure." in L. Diamond and M. Plattner (eds.), *Democratization in Africa*, Baltimore: Johns Hopkins University Press. pp 3-18.

(ODA) to each sub-Saharan African case will be the first variable that will be analyzed for its correlation with term limit outcomes. The hypothesis is that the higher a country's aid as a percentage of GNI ratio, the more likely that country will be to retain and enforce executive term limits.

For this analysis, the value used to assess the relationship between aid and term limit outcomes in each sub-Saharan African country is calculated by taking the average net ODA as a percentage of GNI each state receives over the three years before the attempt to lift term limits (where they were breached) or the three years before president reaches the end of his second term (where term limits were upheld). Included in ODA are all disbursements of loans and grants by both bilateral donors and multilateral institutions. The source of the data on each country's yearly aid is based on the "Net ODA received (% of GNI)" indicator from the World Bank, World Development Indicators (WDI) database.

4. Level of Democracy- Some scholars have postulated that constitutionalism is likely to be stronger in countries that are more democratic overall. In an "all good things go together mentality," Diamond and Morlino posit that different dimensions of democracy, such as competition, participation, responsiveness, rule of law, accountability and others tend to co-vary and that "where we find democracies very weak on some dimensions, such as freedom and the rule of law, they tend to be noticeably deficient on others as well."²⁵² Therefore, the overall level of democracy of each sub-Saharan state (with regards to the respect for individual political rights and liberties in specific) is the second potential explanatory variable that will be assessed against the dependent variable of term limit adherence. The hypothesis is that countries that rate higher

²⁵² Diamond, Larry and Leonardo Morlino. 2004. "The Quality of Democracy: An Overview," *Journal of Democracy*, 15,4: 29.

on other aspects of democracy, such as the respect for individual political rights and liberties, are also more likely to respect and uphold constitutional provisions such as executive term limit laws.

One common measure of the level of democracy that is widely used by many scholars of comparative politics is the annual Freedom House survey ratings.²⁵³ For this analysis, the inverse of the Freedom House rating of each country in the year prior to when term limits are lifted *or* the incumbent president steps down will be used to assess the relationship between level of democracy and executive term limit adherence. Freedom House designations are based on two numerical ratings—one for political rights and one for civil liberties—based on a 1 to 7 scale (1 being the most free and 7 the least free). These two scores are then combined to form a 2-14 scale with a lower score indicating a higher level of democracy in terms of the provision of political rights and liberties.²⁵⁴ The inverse of these scores²⁵⁵ will be used here in order to make the variable move in the same direction as its hypothesized relationship to the independent variable (i.e. higher levels of democracy lead to higher probability of term limit adherence), which will in turn make reading the outputs of the statistical test more intuitive.

5. Incumbent Party Seat Share in the Legislature: After investigating both micro and macro-level variables, a number of mid-level variables related to institutions and political processes with African polities also warrant attention. As mentioned previously, in all but one of the sub-

²⁵³ Polity IV is another widely used comparative measure of the level of democracy across the globe. However, for this analysis, Freedom House is more appropriate because Polity scores are partially based on a measure of “executive constraint” which too closely mirrors the dependent variable under study here to be an independent measure of the level of democracy across country cases.

²⁵⁴ For a more detailed discussion of the methodology used to rate each country, see the “Methodology” section of the 2009 *Freedom in the World* publication:

http://www.freedomhouse.org/template.cfm?page=351&ana_page=354&year=2009

²⁵⁵ A scale of 2-14 is still used, but lower scores now indicate lower levels of democracy. For example, a country that scores a 5 on the Freedom House scale will be coded as an 11 here, signaling a medium-high level of democracy.

Saharan country cases in which executive term limits were lifted that are included in this study, term limits were eliminated from the constitution through the proper formal channels of a vote on a constitutional amendment in the country's parliament. As a result, exploring differences in the conduct of this vote could offer a possible explanation to explain the variation in term limit adherence. Most African constitutions stipulate that amending the constitution requires an affirmative vote of at least two-thirds of the members of parliament. Therefore, one potential explanation for why some countries retained executive term limits while others lifted them could be that term limits are much more likely to be lifted in countries where the president's party has more than a two-thirds majority in the legislature during the president's second term in office/ at the time of the vote on the amendment. Having such a majority from the past election would seemingly make lifting term limits quite easy for an incumbent president because it can be hypothesized that ruling party MPs want to give their party the incumbent advantage in the next presidential election.

The percentage of seats held by the president's party during his/her second term in office is calculated by the author based on returns from the previous election as reported in *Africa South of the Sahara*, various years.²⁵⁶ The number of seats won by the president's party was divided by the total number of seats in the legislature in order to calculate the incumbent party seats share percentage.

6. Free and Fair Elections- Lifting term limits is a risky proposition for a ruling party because, should they lose the next election, an opposition party could effectively have an incumbent advantage in all presidential elections in the future. However, if a party has the ability to rig or otherwise advantage itself in elections to increase their odds of winning, the potential threat of

²⁵⁶ Europa Publications Limited. 1990-2010. *Africa South of the Sahara*. London: Europa Publications Ltd.

the opposition benefiting from a repeal of term limits diminishes. Therefore, one possible explanation for the variation in term limit adherence is that only those parties that are willing and able to conduct non-free and fair elections will lift term limits while those who do not/cannot manipulate electoral outcomes will keep them in place.

Two possible indicators can be used to assess the relationship between free and fair elections and term limit outcomes. One way is to use a measure of the fairness of the previous presidential election (the election in which the incumbent president won his second term) in order to capture variation in ruling parties' ability to manipulate elections in the past. This indicator reflects the information the ruling party has regarding its capacity to disadvantage the opposition in previous electoral contests. Yet, since in most cases the last election would have taken place five years prior and many conditional factors could have changed in the meantime, the ability to rig a previous election may not be a good indicator of a party's capability to manipulate the third election. Alternatively, one way to address this concern is to use instead a measure of the fairness of the third election itself- the election in which the incumbent runs for a third term (in countries where term limits are lifted) or in which a successor candidate runs (in countries where term limits are retained). This indicator allows for the measurement of the actual "third term election" and is therefore more precise in capturing the parties' ability to manipulate electoral procedures or results in the time period under study. However, since parties must make a decision to uphold or lift term limits generally between six to eighteen months prior to the third election, the party's capacity to conduct non-free and fair elections is not fully known when the term limit question is put to the legislature. Since both ways of measuring this indicator have advantages as well as drawbacks, both will be included in the initial difference of

means test in order to determine which has a clearer relationship to patterns of term limit adherence.

For both measures, Lindberg's four-point scale of African elections from 1989-2007 will be used to code country cases. In answer to the question "Were the elections essentially judged free and fair?" Lindberg codes countries as 0="No" when no elections have been held or those held have been wholly unfair; 1="Irregular" when there were serious defects that influenced the results; 2= "Yes, irregularities not significant" when there were deficiencies but they did not affect the result; and 3="Yes" when elections were free and fair.²⁵⁷

7. Electoral system- While there have been some studies carried out by observers of African politics that aim to explain the success or failure of certain African presidents in winning a "third term" through a constitutional amendment,²⁵⁸ they are limited in their explanatory power because they tend to be single-country or small-N comparative studies that do not provide sufficient variation on the dependent variable. The previous study that takes the most rigorous approach to explaining variation in term limit adherence is VonDoepp's survey of third term debates in Namibia, Zambia and Malawi.²⁵⁹ Drawing on the differences between the incumbent ruling parties in Namibia (where term limits were lifted) and Zambia and Malawi (where presidents attempted but failed to abrogate such limits) in terms of the internal habits of dissent and unity in

²⁵⁷ Lindberg, Staffan I. 2009. Elections and Democracy in Africa 1989-2007. STATA file.

Lindberg's coding scheme is based on whether electoral procedures were followed, whether people could join a political organization of their choice, whether demonstrations were allowed, and information freely available.

²⁵⁸For Uganda see Tangri, R. 2006. "Politics and Presidential Term Limits in Uganda," in R. Southall and H. Melber (eds), *Legacies of Power: Leadership Change and Former Presidents in African Politics*. Cape Town, South Africa HSRC Press.

For Kenya, Malawi, and Zambia, see Bamfo, Napoleon. 2005. "Term Limit and Political Incumbency in Africa: Implications of Staying in Power Too Long with References to the Cases of Kenya, Malawi, and Zambia." *African & Asian Studies*, 4,3: 327-56

²⁵⁹ von Doepp, Peter. 2005. "Party Cohesion and Fractionalization in New African Democracies: Lessons from Struggles Over Third-Term Amendments," *Studies in Comparative International Development*, 40,3:65-87.

each country's ruling party, VonDoepp asserts that term limits were lifted where the ruling party displayed cohesion during the term limit debate, while term limits were kept in place where ruling parties or coalitions fractured over the issue. He points to differences in the "exogenous institutional structures," namely different types of electoral systems- proportional representation (PR) in Namibia, plurality or first-past-the-post (FPTP) in both Zambia and Malawi- as one main cause of the greater cohesion of the ruling party in Namibia over those in the other two countries. He argues that members of parliament who are elected through proportional representation are more likely to vote along with the president and central party organization's preferences because their parties have more control over their re-election due to the system of party-list rankings than do parties in FPTP systems. Therefore, the hypothesis is that, when extrapolated to the larger set of sub-Saharan country cases, states with primarily PR electoral systems will be more likely to see term limits lifted than states with FPTP systems.

Once again, the type of electoral system in place in each country during the incumbent president's second term in office will be verified through reference to *Africa South of the Sahara*, various years.²⁶⁰ In the statistical analysis, the electoral system types will be analyzed as a dummy variable with 0= All PR and the mixed systems in which two-thirds or more of seats are decided through PR,²⁶¹ 1= all FPTP and the mixed systems in which less than one-third of the seats are won through PR.²⁶² This is done instead of using a three level categorical variable (i.e. PR, mixed, FPTP) due to the vast differences between the proportion of MPs elected through PR

²⁶⁰ Europa Publications Limited. 1990-2010. *Africa South of the Sahara*. London: Europa Publications Ltd.

²⁶¹ The decision to only code mixed systems with two-thirds or more seats decided through proportional representation with the PR group rests on the logic that, in most sub-Saharan countries, two-thirds was the proportion of votes needed to pass a constitutional amendment to lift term limits, and thus the number of seats the party would need to "control" through the party-list mechanism to ensure passage of such an amendment.

²⁶² The only exception is Mali which has a two-round majority electoral system but employs closed lists nominated by parties. Thus, in terms of the party's control over the selection and ranking of candidates, the part of PR that von Doepp identifies as key in these cases, Mali acts like a PR system and will be classified as such

vs. FPTH in mixed systems and the impact these differences are hypothesized to have on MP decision making given the logic of von Doepp's argument. For example, to compare two mixed systems, in Guinea only 38 (33%) National Assembly members are elected by plurality vote in single-member constituencies while 76 (67%) members are elected through a closed-list proportional representation, whereas in the Seychelles, the balance is reversed with 25 (73.5%) members elected by plurality and only 9 (26.5%) members are elected by proportional representation. Therefore, in terms of von Doepp's logic of PR systems leading to a greater probability of term limit contravention due to MPs being more beholden to the voting the party line in PR systems, Guinea should be expected to act more like a PR system and Seychelles more like a FPTP system, and are classified as such in the analysis.

8. Competitiveness within the Party System - While von Doepp's study concentrates on patterns of unity and dissent just within the incumbent party, the finding from the first part of this dissertation, (that parties in power adopt executive term limits during periods of high electoral uncertainty in order to regulate party competition in the future,) suggests the need to include a variable that captures the degree of electoral competition *between* the incumbent and opposition parties in the political system in the second half of the analysis. This logic would suggest that, if perceptions that the strength of the incumbent party relative to the opposition was uncertain or in decline (meaning the incumbent party was unsure of its chances of winning the next election) drove the adoption of term limits, a continued high level of electoral competition could act as an incentive to keep these limits in place. Correspondingly, if the incumbent party perceived that it was much stronger than any opposition party (meaning that it was clear that the incumbent party would win any election into the foreseeable future), this could cause ruling parties to re-evaluate

their need to regulate competition in this way. However, this logic assumes that incentive structures remain the same over time, which might not be a sound assumption since it entails comparing a time of political transition in time period one to a time of more routine political practice in this second time period. In fact, one could imagine a reversal of incentives in time period two, where incumbent parties that are *uncertain* if they will win the next election choose to lift executive term limits in order to increase their chance of winning through retaining the incumbency advantage, whereas parties that are certain to win the next election have little incentive to alter term limit rules since it will not directly aid anyone but the president and may even damage the party's reputation domestically if they tamper with the constitution.²⁶³

Therefore, two hypotheses relate to the party system competitiveness variable: 1) Term limits are more likely to be lifted in electoral environment characterized by decreased competitiveness due to the fact that the original reason for adopting term limits (uncertainty in the electoral arena) has disappeared; 2) term limits are more likely to be lifted in cases where the electoral arena remains or becomes increasingly competitive because the incumbent party wants to retain incumbent advantage to increase its chances of winning the next election. In order to capture and compare the level of competition between the president's party and opposition parties in each sub-Saharan African country during the time period under study in this part of the analysis, a measure of party system competitiveness will be assessed against term limit outcomes to test the relationship between the two.

²⁶³ Evidence suggests that some African ruling parties have altered their constitutions in other ways to increase their chances of winning in an increasingly competitive environment. For example ruling parties in the DRC and The Gambia, among others, have eliminated the need for an absolute majority (over 50%) to win the presidential election in favor of a simple majority rule based on the logic that their candidate has a better chance of winning the first round of the election (against a split field of opposition candidates) than winning in a second round run-off when pitted against only one opposition candidate.

As mentioned in Chapter 2, over time political scientists have proposed various ways to measure the competitiveness of party systems, each of which have their strengths and shortcomings when applied to the African context.²⁶⁴ For example, one of the most common party system measurements employed in political science is the “effective number of political parties” (ENPP) based on the calculation scheme developed by Laakso and Taagepera.²⁶⁵ However, in non-institutionalized party systems, which encapsulates the vast majority of sub-Saharan African systems, ENPP calculations often distort the realities on the ground, as a comparison between the ENPP measures for the second elections after democratization in Gabon and Mozambique demonstrate. For both countries, the ENPP based on election results were nearly identical- 1.95 in Gabon, 2.00 in Mozambique. Yet, underneath these similar ENPP values are very different levels of party competition. In the 1996 legislative election in Gabon, thirteen parties won seats in the legislatures, but the Gabonese Democratic Party (PDG) party won 70% of those seats with the other 12 parties only winning a handful of seats each. Alternatively in the 1999 Mozambique election, only two parties won seats in the legislature with the ruling FRELIMO party winning 53% of the seats with the opposition RENAMO party capturing the remaining 47%. Thus, even though their similar ENPP calculations would suggest that the party systems in Gabon and Mozambique comprise a similar level of competition, in reality these ENPP measures mask the stark differences between Gabon’s non-competitive system and Mozambique’s highly competitive electoral environment.

Similarly, other standard measures that scholars have used to approximate the level of competitiveness among parties, including polarization, party system openness and volatility, are

²⁶⁴ For a review see Bogaards, Matthijs. 2004. “Counting Parties and Identifying Dominant Party Systems in Africa,” in the *European Journal of Political Research*, Vol. 43:173-97

²⁶⁵ Laakso, M. and R. Taagepera. 1979. “Effective Number of Parties: A Measure with Application to West Europe,” *Comparative Political Studies* 12,1:3-27.

not reliable measures when attempting to analyze the non-ideological and non-institutionalized party systems of sub-Saharan Africa. Even Sartori's classic party system typology for fluid polities (which classifies party systems in emerging democracies as dominant-authoritarian, dominant, non-dominant or pulverized) is not the optimal measurement scheme for use here since it conflates electoral competition (one party needs to win over 50% of seats to be "dominant") and free and fair elections in order to establish the line between dominant and dominant-authoritarian systems). Since the free and fair quality of elections is being analyzed as a separate variable in this study, a different party system classification method that only measures electoral competition must be developed that is better able to capture the realities of African party contestation.²⁶⁶

To construct a measure of the level of party competition that both accounts for Africa's non-institutionalized party systems and reflects the information that is available to incumbent parties at the time they decide to uphold or contravene term limit laws, two criteria are essential. First, the measure must capture the electoral strength of the incumbent party and opposition parties *vis-à-vis each other*. Many studies of the competitiveness within party systems across Africa only look at the percentage of seats or votes won by the winning party.²⁶⁷ However, this can be a misleading basis for such a measure since a party that captures 55% of the vote in a two-party system where the other party garners 45% is a much more competitive system than one in which the ruling party wins 55% of the vote but six other smaller parties each win less than ten percent of the remaining votes. Second, most measures of competitiveness such as

²⁶⁶ When ENPP measures for each country are analyzed in a logit regression with Aid as % of GNI, Level of Democracy (Freedom House scores), colonial power and free and fair elections variables, ENPP is found to not be significant (with a correlation coefficient of 0.267).

²⁶⁷ See for example Mozaffar, Shaheen and James R. Scarritt. 2005. "The Puzzle of African Party Systems," *Party Politics*, 11(4): 399-421 and Van de Walle, N. & Butler, K.S. 1999. "Political Parties and Party Systems in Africa's Illiberal Democracies." *Cambridge Review of International Studies* 13(1): 14-28.

ENPP only assess the relationship between parties at a single point in time, or at most, measure changes between two elections. However, in reality, political decision makers draw on their observation of trends over longer periods of time regarding *changes in both the direction and degree* of party strength to form a more dynamic assessment of party competition within their polities. Taking into account trends in competitiveness over time is also essential when studying sub-Saharan African party systems because, due to the frequent occurrence of election boycotts by the opposition, only looking at the results of a single election can present a distorted picture of the true level of competition between the incumbent party and possible challengers.

To meet the two criteria outlined above, a measure of the level of electoral competitiveness will be developed that classifies countries based on changes in the margin of victory in vote shares between the incumbent party and the opposition party that garners the most votes in legislative elections over the span of three electoral competitions (generally beginning with the first multi-party election in the country in the early-mid 1990s and ending with what was or would have been the nearest legislative election to that country's incumbent president's third term election).²⁶⁸ The margin of victory (MoV) is calculated by subtracting the percentage of votes²⁶⁹ won by the second place party from the percentage of votes won by the first place party in each of the three electoral contests. Based on the trends in changes in the margin of victory over time, each country is then classified into one of four categories:

²⁶⁸ Many African countries hold elections for the presidency the legislature concomitantly, which made determining which three elections to include in the analysis simple. For those countries in which presidential and legislative elections are staggered, the first legislative election included is the multi-party election that is closest in date to the election in which the president under study is first elected in a multi-party election, be that before (i.e. Namibia) or after (i.e. Burkina Faso) the presidential election.

²⁶⁹ For the majority of cases, the vote shares won by each party are publically available. However, for the countries where vote share data is not available, seat share data was used instead to calculate the margin of victory.

Non-competitive: The incumbent party has enjoyed a MoV greater than 40%²⁷⁰ in each of the first three multiparty elections.

Less Competitive: The MoV in all three elections has been between 15-40% in favor of the president's party, no turnover in control of the Legislature.

Semi-Competitive (Trending Down): An opposition party has come within 15% of the president's Party's MoV in at least one early legislative election,²⁷¹ but the margin of victory has grown in recent elections such that elections have become less competitive over time. Yet, the opposition's previous strength provides a potential basis for future competition

Competitive (Trending Up): Opposition parties have come within 15% of the incumbent party in at least one recent election and may have even taken over the legislative majority in some cases in second or third elections. Elections have grown more competitive over time.

For the statistical analysis, these four categories will be coded as 0= Non-competitive, 1= Less Competitive, 2= Semi-competitive and 3= Competitive. Data on the vote shares secured by each party in the 74 sub-Saharan elections across the 26 countries included in this study were collected from various sources including Nohlen et al's *Elections in Africa: A Data Handbook*,²⁷² the African Elections Database,²⁷³ the Interparliamentary Union (IPU) election archives²⁷⁴ and the Election Guide of the International Foundation for Election Systems (IFES).²⁷⁵

9. Colonial Power- Generally treated as a control variable, a quick look at the map of sub-Saharan Africa seems to suggest that the majority of countries in which term limits are lifted are concentrated in West Africa, which is primarily populated by former French colonial holdings.

²⁷⁰ Forty percent was chosen as the cut-off between the Non-competitive and Less Competitive categories because, in all the cases included in the dataset, no African party has won a majority in the legislature that lost by a margin of over 40% in the previous election, making it (at least for now) a seemingly insurmountable obstacle.

²⁷¹ This category can include countries like Togo where an opposition party won a slim 1.2% majority in the first multi-party election but since then has been defeated by large margins of well over 40% by the incumbent presidents party in subsequent elections.

²⁷² Nohlen, D., M. Krennerich, and B. Thibaut. 1999. *Elections in Africa: A Data Handbook*. New York: Oxford University Press.

²⁷³ <http://africanelections.tripod.com>

²⁷⁴ www.ipu.org/parline-e/reports

²⁷⁵ www.ifes.org/eguide/elecguide.htm.

Therefore, to test whether this visual observance is in reality statistically supported, a colonial power variable will be included in the analysis. The notion that a political outcome could be driven by the contrasting experiences with colonialism and the legacies these divergent practices have left is not a new one in studies of sub-Saharan Africa. In the decades since the end of colonialism (which lasted until the late 1950s in West Africa through to the early 1980s in some southern African nations) many scholars of African history and politics have ascribed differences in factors as wide-ranging as infrastructure development, political stability, economic growth, ethnic relations and the rule of law²⁷⁶ have all been, at one time or another, attributed to variation in the colonial experience by African countries formerly ruled by France, the UK, Germany or Portugal. While determining exactly what aspect of colonial legacy could impact term limit outcomes would necessitate in-depth case study analyses, one noted difference in colonial policy and legacy that could potentially affect domestic power dynamics today include the more hands-on approach (both during the colonial period and after independence) taken by France versus the more hands-off governance approach taken by the UK, Germany and Portugal. Therefore, the working hypothesis in this analysis is that being a former French colony will make it more likely that term limits will be lifted in a given country.

The former colonial power associated with each sub-Saharan African country will be verified by the description of the history of each state as recorded in the reference *Africa South of the Sahara*, various years.²⁷⁷ For countries that were colonized by more than one European power over the course of the colonial period, the European nation that colonized that country for the longest period of time will be employed in the analysis. For example, present-day Tanzania

²⁷⁶ See for example Acemoglu, Daron Simon Johnson, and James Robinson. 2001. "The Colonial Origins of Comparative Development: An Empirical Investigation." *American Economic Review* 91: 1369-1401. And Joireman, Sandra Fullerton. 2001. "Inherited Legal Systems and Effective Rule of Law: Africa and the colonial legacy," *Journal of Modern African Studies*, 39,4: 571-596.

²⁷⁷ Europa Publications Limited. 1990-2010. *Africa South of the Sahara*. London: Europa Publications, Ltd.

was colonized by Germany from 1884 until it was defeated in World War I in 1919, at which time its colonial territories in East Africa were transferred to the United Kingdom, which ruled Tanganyika and Zanzibar (the two territories that comprise Tanzania today) until independence in 1964. Therefore, in the statistical analysis here, Tanzania will be classified as a British colony because it was under the dominion of the UK for 45 years but only under German rule for 35 years. The only African country case with multiple colonial powers whose classification cannot be resolved by recourse to length of colonization is Cameroon, whose present day territory was split between English and French protectorates following World War I and only united upon independence in 1960. However, since a majority of the territory of present-day Cameroon was administered by the French (eight districts vs. the UK's two), Cameroon will be coded as a French colony in this analysis. For the analysis, colonial power is treated as a dummy variable²⁷⁸ where 0= non-French colonies and 1= former French colonies.

10. Ethnic Fractionalization of the country- Included primarily as a control variable, a measure of ethnic fractionalization in the country aims to measure the level of ethno-linguistic heterogeneity in a polity. It has been argued that varying levels of ethnic diversity within a country can impact political and economic outcomes such as public goods provision,²⁷⁹ government policies and economic growth in various ways in sub-Saharan nations.²⁸⁰ Therefore, it is important to assess whether differences in ethnic diversity plays a role in term limit outcomes across country cases.

²⁷⁸ Treating colonial power as a categorical variable (i.e. France= 1, UK= 2, Germany= 3, Portugal=4) did not work well in this analysis because both Germany and Portugal categories had so few observations that it skewed the results.

²⁷⁹ Habyarimana, James P. et al. 2009. *Coethnicity: Diversity and the Dilemmas of Collective Action*. New York: Russell Sage Foundation.

²⁸⁰ Easterly, William, and Ross Levine. 1997. "Africa's Growth Tragedy: Policies and Ethnic Divisions." *Quarterly Journal of Economics*, 112 (November):1203–50.

The standard measure of ethnic fractionalization that is widely employed in statistical analyses is the Ethno-Linguistic Fractionalization (ELF) measure developed by Easterly and Levine that employs a Herfindahl concentration index to assess the likelihood that two people chosen at random will be from different ethnic groups.²⁸¹ However, Posner argues that the ELF measure is not helpful to researchers interested in political outcomes because the data from which it was calculated “enumerates dozens of groups in each country that may be culturally or linguistically distinct from their neighbors but that are irrelevant as independent political actors.”²⁸² Therefore, he constructs an alternative measure of ethnic fractionalization which seeks to account for the degree of politically salient ethnic diversity in each polity called Politically Relevant Ethnic Groups (PREG).²⁸³ As the issue of executive tenure is an inherently political issue, Posner’s PREG measure of ethnic fractionalization will be employed in this analysis.²⁸⁴ The PREG index calculates the politically relevant ethnic fractionalization in each country on a scale from 0 to 1, with 0 indicating a perfectly homogeneous society and 1 a fully heterogeneous society. The data is sourced from Posner’s 2004 article in the *American Journal of Political Science*.²⁸⁵

Two data tables (Tables 4.2 and 4.3) that include the values on all ten of the possible explanatory variables for each of the 26 cases under study are included below:

²⁸¹ *Ibid.*

²⁸² Posner, Daniel. 2004. “Measuring Ethnic Fractionalization in Africa.” *American Journal of Political Science*, 48: 853

²⁸³ *Ibid.*, p. 854.

²⁸⁴ As it turns out, neither ELF or PREG correlates highly with term limit outcomes in a pairwise comparison, although the direction of the correlation is different between the two. ELF has a correlation coefficient of -0.0843 while PREG’s correlation coefficient is 0.0370.

²⁸⁵ *Ibid.*, p. 856, 861-862.

Table 4.2: Variable Values

<i>Country / President</i>	<i>Incumbent President years in power</i>	<i>Per capita Econ Growth during current term²⁸⁶</i>	<i>Foreign Aid as % of GNI²⁸⁷</i>	<i>Level of Democracy</i>	<i>Seat share of President's party in legislature</i>	<i>Term Limits Lifted?</i>
Burkina Faso/ Compaore	10	1.35%	20.00%	7	91.00%	yes
Cameroon/ Biya	26	1.02%	7.33%	4	85.00%	yes
Chad/ Deby	14	12.85%	11.33%	5	71.00%	yes
Djibouti/ Guelleh	11	3.2%	12.27%	6	100%	yes
Gabon/ Bongo	36	-3.40%	0.66%	7	70.80%	yes
Guinea/ Conte	17	0.50%	7.33%	5	62.30%	yes
Namibia/ Nujoma	8	1.58%	4.70%	11	74.00%	yes
Niger/ Tandja	10	1.51%	13.50%	9	41.60%	yes
Senegal/ Diouf	17	0.18%	n/a	8	66.40%	yes
Togo/ Eyadema	35	-2.48%	4.33%	6	88.90%	yes
Uganda/ Museveni	19	2.88%	14.33%	7	No-party	yes
Benin/ Kerekou	34	0.48%	9.00%	12	37.80%	no
Cape Verde/ Monteiro	10	4.35%	22.00%	13	55.50%	no
Ghana/ Rawlings	20	1.72%	8.33%	10	66.00%	no
Ghana/ Kufuor	10	3.90%	9.33%	13	55.70%	no
Kenya/ Moi	24	-0.51%	3.33%	5	51.40%	no
Malawi/ Muluzi	10	-3.04%	25.33%	9	48.20%	no
Mali/ Konare	10	4.05%	14.66%	11	87.10%	no
Mozambique/ Chissano	19	4.53%	34.66%	9	53.20%	no
Nigeria/ Obasanjo	10	5.53%	2.33%	8	69.70%	no
Soa Tome&P/ Trovoadá	10	n/a	n/a	13	56.00%	no
Seychelles/ Rene	27	0.26%	1.70%	10	67.70%	no
Sierra Leone/ Kabbah	11	7.02%	30.70%	9	74.10%	no
Tanzania/ Mwinyi	10	-0.62%	25.00%	4	100%	no
Tanzania/ Mkapa	10	3.60%	15.33%	9	91.00%	no
Zambia/ Chiluba	10	-0.29%	19.70%	7	87.70%	no

Table 4.3: Variable Values, Continued

<i>Country / President</i>	<i>Free and Fair Elections (2nd/3rd)</i>	<i>Electoral System</i>	<i>Party System Competitiveness</i>	<i>Colonial Power</i>	<i>PREG: ethnic fractionalization</i>	<i>Term Limits Lifted?</i>
Burkina Faso/ Compaore	1 / 1	PR	1	France	0	yes
Cameroon/ Biya	1 / 1	Mixed	1	UK/France	.71	yes
Chad/ Deby	1 / 1	Mixed	1	France	.66	yes
Djibouti/ Guelleh	1 / 1	Majority	1	France	n/a	yes
Gabon/ Bongo	1 / 2	Majority	0	France	.21	yes
Guinea/ Conte	1 / 1	Mixed	1	France	.48	yes
Namibia/ Nujoma	2 / 2	PR	1	Germany	.55	yes
Niger/ Tandja	2 / n/a	Mixed	1	France	.51	yes
Senegal/ Diouf	2 / 2	Mixed	1	France	.14	yes
Togo/ Eyadema	0 / 1	PR	2	France	.49	yes
Uganda/ Museveni	2 / 2	Majority	0	UK	.63	yes
Benin/ Kerekou	1 / 2	PR	3	France	.3	no
Cape Verde/ Monteiro	2 / 2	PR	3	Portugal	n/a	no
Ghana/ Rawlings	2 / 2	Majority	3	UK	.44	no
Ghana/ Kufuor	2 / 2	Majority	3	UK	.44	no
Kenya/ Moi	1 / 2	Majority	3	UK	.57	no
Malawi/ Muluzi	2 / 1	Majority	3	UK	.55	no
Mali/ Konare	2 / 2	Majority	3	France	.13	no
Mozambique/ Chissano	2 / 2	PR	2	Portugal	.36	no
Nigeria/ Obasanjo	1 / 1	Majority	1	UK	.66	no
Soa Tome&P/ Trovoadá	2 / 2	PR	3	Portugal	n/a	no
Seychelles/ Rene	2 / 3	Mixed	3	UK	0	no
Sierra Leone/ Kabbah	2 / 2	Majority	3	UK	.56	no
Tanzania/ Mwinyi	n/a / 1	Majority	1	UK	.59	no
Tanzania/ Mkapa	1 / 2	Majority	1	UK	.59	no
Zambia/ Chiluba	1 / 1	Majority	3	UK	.71	no

²⁸⁶ Based on data from the World Development Indicators collected by the World Bank. Year was included if the president was in office for more than six months out of that year.

²⁸⁷ Average over the three years before attempt to lift term limits or year before president reaches the end of his second term. Source: World Bank, World Development Indicators (WDI) database.

Assessing the Explanatory Variables- Difference of Means Analysis

As mentioned earlier, the medium- n size of the universe of cases encapsulated by this research question poses challenges for quantitative analysis. While logistic regression is generally used to assess an array of possible explanatory independent variables against a dichotomous dependent variable, the number of potential explanatory variables identified above relative to the comparatively small number of president/country cases in the analysis decreases the precision of the logistic test. Therefore, the quantitative analysis for this part of the dissertation will be undertaken in two steps. First, the relationship between all ten of the possible explanatory variables introduced above and term limit adherence will be assessed through a difference of means (two tailed t-test) analysis. Such an analysis tests the null hypothesis that the mean values of each variable do not differ significantly from each other between two groups of cases- in this instance the term limit upholders and term limit contraveners. Any variable for which the null hypothesis can be rejected has the potential to be reliable predictors of term limit outcomes across sub-Saharan cases. Once the results of the difference of means test are known, only those potential explanatory variables for which the null hypothesis was rejected at an 85% confidence level will be entered into a logistic regression analysis.²⁸⁸ The lower number of variables included in the regression will increase the precision of the logistic test, thus creating a firmer statistical foundation on which to base the qualitative portion of the analysis.

The results of the difference of means analysis are listed in Table 4.4. Among the less reliable predictors of term limit adherence turn out to be *incumbent president's years in office*, *economic growth under the incumbent*, the *incumbent party's seat share* in the legislature, the

²⁸⁸ The lower threshold of 85% is being used rather than the normal 90% for two reasons. First, methodologically, with such a small n , the results of any quantitative analysis will merely be suggestive, so greater leeway should be given before ruling out potential explanatory variables. Second, on a practical level, two variables (Aid as a % of GNI and Free and Fair elections) both fall below the 90% confidence level by less than .004, and therefore should be included in the second round of analysis.

Table 4.4: Difference of Means (t-test) Results for Indicators of Executive Term Limit Adherence²⁸⁹

<u>Variable</u>	<u>Difference of Means²⁹⁰ (P-value in parentheses)</u>	
Years incumbent president in office	-3.5879 (0.3151)	
Econ Growth (% per capita) during president's current term	0.4608 (0.7389)	
Aid as % of GNI	10.3730 (0.1029) ‡	
Level of democracy	2.6485 (0.0122) **	
Legislative seat share of President's party	-8.6236 (0.2201)	
Free and fair elections second election	0.3701 (0.1606)	<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;"><u>Key</u></p> <p>$n = 26$</p> <p>**= significant at the 95% level</p> <p>*= significant at the 90% level</p> <p>‡ = significant at the 85% level</p> </div>
third election	0.4000 (0.0847)*	
Electoral system	0.2121 (0.2982)	
Competitiveness of the party system	1.6242 (0.0000) **	
Colonial Power	-0.5939 (0.0011) **	
PREG- ethnic fractionalization	0.0158 (0.8671)	

²⁸⁹ Two-tailed t-test. Null hypothesis (H0): Difference between means = 0. Hypothesis tested (Ha): difference between means \neq 0. $\Pr (|T| > |t|) = P$.

²⁹⁰ difference of mean = mean (term limit adherents) - mean (term limit non-adherents)

electoral system, and politically relevant *ethnic fractionalization*. As the values in Tables 4.2 and 4.3 show, we see heterogeneous patterns of all of these variables in both polities that retain and polities that abolish term limits. For example, contrary to the hypothesis that presidents who oversaw a period of positive and significant economic growth would be more likely to see term limits lifted in their countries does not hold up in reality as, out of the eight countries with average growth rates above 3.0% during the incumbent presidents second term, seven of them are countries that ultimately retained executive term limit laws.²⁹¹ In addition, countries with negative growth rates can be found amongst both groups of country cases. Similarly, presidents with long tenures in office can be found in both countries that adhere to and countries that breach constitutional limits on executive tenure, as can a mix of various electoral systems, both low and high levels of ethnic fractionalization and small and large percentages of legislative seats held by MPs from the president's party. These findings suggest that term limit outcomes do not seem to rest on the past performance of the specific president, are not simply an outcome of socio-political cleavages or of previous institutional choices or that lifting term limits is not as easy as simply having a majority in parliament at the time of the vote on the term limit amendment. Accordingly, due to their low difference of means results, these five variables will not be included in the logit analysis.

Other variables appear to be better potential predictors of term limit outcomes based on the t-test outputs. The *Level of Democracy* appears to have a fairly robust relationship to patterns of term limit adherence. In general, as observable in Table 4.3, countries that retain term limits tend to have higher ("more free") scores than countries in which limits on executive tenure are abolished. However, there are a number of country cases that do not confirm to this pattern,

²⁹¹ This group includes Cape Verde, Ghana (under Kufuor), Mali, Mozambique, Nigeria, Sao Tome & Principe, and Sierra Leone. Chad was the only country that lifted term limits that have an average growth rate above 3.0%.

including Namibia and Niger as relatively democratic countries that lifted term limits and, on the other side, Kenya, Tanzania and Zambia, relatively less free countries (as rated at the time of term limit decisions) that enforced term limit laws on incumbent leaders. This apparent disconnect in several countries between levels of political freedoms for citizens (the aspect of democracy that Freedom House scores are based upon) and the adherence to the rule of law by political elites indicates that we should not assume that all aspects of democracy co-vary together. Therefore, it is important to disaggregate the concept of democracy and explore aspects of democracy that more directly relate to representation and elections. One variable that looks at a specific aspect of a country's level of democracy is *Free and Fair Elections* indicator. In the difference of means test, while the difference of means for the second elections cannot be ruled to be different from zero, the difference of means in fairness of the third multiparty elections (the elections that are or would have been the "third term" elections for the incumbent president) is above the 90% confidence level for rejecting the null hypothesis and the positive value of the p-value for this variable indicates that countries that kept term limits in place as a group have higher average scores on Lindberg's measure of free and fair elections than the cluster of contraveners. As such, the degree to which the holding of free and fair elections relates to term limit outcomes also warrants further analysis. Likewise, the variable *Aid as a percentage of GNI* falls just above the 90% confidence level and behaves as predicted, which is in line with the hypothesis that the more aid-dependent a country is the less likely it is to abolish term limits for fear of disillusioning donors regarding their democratic credentials. It too will be further explored in the logit models.

Besides the Free and Fair elections indicator, another variable, *Competitiveness of the Party System*, a measure constructed to capture the degree and direction of change in the relative

balance of power between the incumbent and opposition parties over time, attempts to isolate one aspect of democracy for analysis. The difference of means test reveals that it is one of two potential predictors that appear to demonstrate the strongest relationship to patterns of term limit adherence across the two categories of with a confidence interval above the 99% level. Recall that that party system competitiveness was the one variable for which the hypothesized relationship with executive tenure outcomes was unclear, as one logic suggested that current incumbent parties in highly competitive states might have incentives to lift term limits in order to capture incumbency advantage for the next election whereas another logic suggested that term limits were more likely to be lifted in non-competitive states because the need to regulate political competition (the reason for the adoption of term limits in the first place as discussed in Chapter 3) no longer obtained. Yet, sign on the t-statistic clearly suggests that ruling parties in non-competitive and less competitive party systems are much more likely to contravene term limits than their counterparts in more competitive party systems. In fact, both of the two (100%) president/country cases classified as non-competitive lifted term limits, eight out of the eleven (72%) rated as less competitive did away with tenure restrictions, one out of the two (50%) cases classified as semi-competitive abolished limits but none (0%) of the ten cases rated as competitive altered term limit laws in their constitutions. Thus, as the level of competitiveness in the electoral system increases, so too does the likelihood that term limits will be retained at the end of the second term of the first president elected under the re-introduced multi-party system. The strength of this variable will be further tested in the logit analysis.

Finally, the other variable that demonstrated a very strong relationship to term limit outcomes in the difference of means analysis is the *colonial power* variable. As predicted based on visual observations of a map indicating countries where term limits have been contravened,

being a former French colony greatly increases a country's probability of abolishing term limits ten years after first implementing them. This variable poses a bit of a puzzle in this analysis as the large time gap between the end of the colonial era in the 1950s-60s and the abolition of term limits in the late 1990s-2000s means that it is difficult to establish a clear link between colonial experiences and more modern elite decision making. The hypothesis presented earlier, that France's of active support of rulers (even dictatorial ones) in its former colonies well into the 1980s-90s could have contributed to building up strong incumbent regimes that were later better equipped to fend off opposition challenges, may explain part of this pattern. However, the high degree of variation in French involvement between her former colonies makes this line of reasoning incomplete. It is likely that this largely geographic variable²⁹² is actually masking other factors that have not been included in the statistical analysis. Uncovering the mechanisms that link French colonial history to term limit outcomes is best done through case study analyses. Unfortunately, the case studies selected for this part of the project do not allow for this type of investigation as both Uganda and Zambia are former British colonies.²⁹³ Thus, while it is important to note the apparent link between French colonial experience and term limit abrogation and to include the colonial power variable in the forthcoming logit analysis, a full investigation of this variable must be left for future research.

Assessing the Explanatory Variables- Logistic Regression Analysis

The difference of means analysis above revealed that, of the ten explanatory variables assessed, five seemed to relate to patterns of term limit adherence to a high enough degree to

²⁹² Most former French colonies are found in West Africa while the majority of former English colonies are in Eastern and Southern Africa.

²⁹³ It should be noted that when attempted but unsuccessful term limit contraventions are combined with successful contraventions, the French colonial link is weakened since all three failed attempts (Zambia, Malawi and Nigeria) are former British colonies. Therefore, the impetus to try to lift term limits seems more universal than the success.

warrant further investigation. With the number of independent variables cut in half, we can now move to a series of logistic regression analyses in order to assess the relationship between each variable and term limit adherence when all other variables are held constant. The five variables that will be included in the logistic regression analysis are the amount of foreign aid received by each country, the level of democracy/Freedom House rating, the free and fairness of elections, the competitiveness of the party system and the colonial power variables.

In order to examine the effects of the independent variables listed above upon term limit adherence across sub-Saharan Africa, variations on the following logistic regression model will be estimated:

$$\ln(p/1-p) = B_0 + B_1X_{\text{Aid\%GDP}} + B_2X_{\text{FreedomHouse}} + B_3X_{\text{FreeFairElec}} + B_3X_{\text{Competitiveness}} + B_4X_{\text{ColPower}} + u$$

where B_0 represents a constant, $X_{\text{Aid\%GDP}}$ represents the average amount of aid as a percentage of GDP that a country receives over the three years prior to the term limit decision, $X_{\text{LevelofDemocracy}}$ represents the level of democracy in the country, coded as an inverted Freedom House score, $X_{\text{FreeFairElec}}$ stands for the degree to which the third election is free and fair as coded by Lindberg, $X_{\text{Competitiveness}}$ represents the degree and direction of change in the balance of power between the president's party and opposition parties over the first three multi-party elections and X_{ColPower} represents the coding of French vs. non-French colonial history.

Unfortunately running the logistic regression with all five variables against the 26 cases produces an error in which “10 failures and 15 successes completely determined.”²⁹⁴ Therefore, six different models will be run using several combinations of variables, the results of which are presented below in Table 4.5. Models One and Two alternatively include either colonial power

²⁹⁴ The error occurs when the Colonial Power and Competitiveness variables are included in the same model.

Table 4.5: Results of Logistic Regression Models on Term Limit Adherence

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Aid as % of GNI	0.1018 (1.17)	0.1586 (1.37)			0.1489 (1.32)	0.1435 (1.35)
Level of Democracy	0.4863 (1.56)	0.3008 (0.61)	0.5571 ‡ (1.84)	0.1651 (0.38)	0.2555 (0.77)	
Free and Fair Elections	0.1869 (0.14)	0.2449 (0.13)	-0.4059 (-0.30)	0.4139 (0.20)		1.1149 (0.81)
Colonial Power	-2.789* (-2.07)		-2.983* (-2.31)			
Competitiveness of Party System		2.4507 ‡ (1.88)		2.1630* (2.22)	2.5513* (2.11)	2.3482* (2.07)
Constant	-3.8917 (0.82)	-7.8952 (-1.87)	-2.1533 (-1.08)	-4.9260 (-2.03)	-7.4162 (-1.86)	-6.7290 (-2.09)
Pseudo R N	0.4819 25	0.6073 25	0.4330 25	0.5290 25	0.5969 26	0.5956 25

Coefficients above, z-value in parentheses. 2-tailed p-value: ‡ p<0.10, * p<0.05, ** p<0.01

or level of party competition along with the other three variables in order to overcome the error that results when all five variables are regressed together. The variable for Aid as % of GNI is dropped from models Three and Four due to the fact that it was the lowest scoring indicator in the difference of means test and was also not found to be significant in the first two logit models. Thus, models Three and Four are included in order to further isolate the variables that seem to offer the greatest possible explanatory power. In all four models, colonial power and party system competitiveness are the only variables that are consistently significant at or above the

90% level. Furthermore, in models Five and Six, the level of democracy and free and fair elections variables are assessed one at a time in order to address issues of multicollinearity between the two. Both variables are included in the overall analysis because the political phenomenon they seek to represent and evaluate are conceptually distinct, with level of democracy speaking to the impact of overall regime type on term limit outcomes and free and fair elections assessing a much more proximate possible explanation, namely to degree to which the ruling party's ability to manipulate elections in specific affects a ruling party's decision to tamper with term limit laws. However, based on the way each are operationalized here, they are highly correlated statistically (with a correlation coefficient of 0.6228), which poses a problem of multicollinearity, especially given the small number of cases being assessed. Therefore, models Five and Six are included in order to address this issue by gauging the extent to which it affected the results of the earlier models in which both level of democracy and free and fair elections were included in the same regression. As the results from these two models demonstrate, separating out values for level of democracy and free and fair elections do not yield results that are significantly different from earlier models. While the coefficients for both level of democracy and free and fair elections do change somewhat (especially the increase of the later) in models Five and Six, the overall result indicates that the level of competitiveness within the party system is a much stronger determinant of term limit adherence across the universe of African cases.

Overall, after entering various combinations of all five variables that related most directly with term limit outcomes into logit analyses, I find that only two factors remain robustly significant: the competitiveness of the party system and the former colonial power. Both were significant above the 90% level in models One and Two and at a 95% level in models Three and

Four, while competitiveness of the party system was also significant at the 95% level in models Five and Six. These results signal that, controlling for other factors, states with less competitive party systems and French colonial histories are much more likely to contravene executive term limits than countries more competitive party systems and countries that were colonized by the UK, Portugal or Germany. While the level of democracy was significant at the 90% level in model 3 when assessed against the colonial power variable, it was not significant in any of the other five models, including the four models in which competitiveness was included a variable.

In further testing, interactions between competitiveness * levels of democracy; competitiveness * free and fair elections; colonial power * levels of democracy; and colonial power * competitiveness were added to the various models, but all of the interaction variables were found to either not be significant or return errors of over-determination.²⁹⁵ This suggests that, given the limitations of small *n* data analysis, the degree of competitiveness in the party system and the colonial history of sub-Saharan countries on their own appear to be the best indicators of the probability that a sitting government will adhere to executive term limit laws.

Based on these statistical findings, the focus of the qualitative investigation in the next two chapters will be to unpack the causal mechanisms that drive the relationship between party competitiveness and term limit adherence. Through interviews with political elites and analysis of key documents, the aim of the qualitative analysis is to flesh out the reasons why term limits were lifted in Zambia's non-dominant party system while term limits were abolished in Uganda's dominant-authoritarian system. As mentioned previously, uncovering the basis, either direct or indirect, for the relationship between French colonial history and term limit contravention will be left to future research.

²⁹⁵ Whether there is genuinely no interaction effect or whether the *N* is simply too small (i.e. does not produce enough cross-cutting variation) to be able to find results with an interaction term and the two parent variables in the model is difficult to know.

CHAPTER 5

TERM LIMIT ABROGATION: THE CASE OF UGANDA

The Ugandan parliamentary chamber was unusually packed with both lawmakers and spectators on July 12, 2005 as each Member of Parliament took his or her turn in declaring “aye” or “nay” on the amendment of article 105(2) of the national constitution, the clause which placed a two term limit restriction on the office of the president. The debate over unlimited executive terms, or “kisanja” meaning “another turn” in the Luganda vernacular widely spoken in and around the capital Kampala, had begun in March 2003 at a party conference at Kyankwanzi and had simmered in the media, among civil society groups and in the halls of parliament all the way up until this vote. President Yoweri Museveni had been careful to stay silent during the two-plus-year debate, yet it was common knowledge that the President not only favored the abolition of term limits, but had actively lobbied individual members of parliament to vote in favor of lifting the restriction on his office. In the end, 220 MPs chose to vote with the president to lift executive term limits while only 53 voted against amending the article. Yet, the choice on how to vote was a complex matter for many MPs, some of whom left the chambers crying after voting to lift term limits because they had “gone against their conscience.”²⁹⁶

The purpose of this chapter is to assess whether the collective results of MP choice in the Ugandan term limit debate described above is consistent with the expectations of the decision model developed in chapter two. The model’s probabilistic prediction of the outcome of the Ugandan case rest upon the balance of power between the incumbent and opposition parties in

²⁹⁶ Author’s interview with NRM member of Parliament, 2/7/2008.

the closing years of the executive's second term. Yet, it is not the absolute levels of power possessed by each party (to the extent that such a variable can even be measured with any degree of accuracy) that determines the outcome of term limit debates. Rather it is the *perceptions* that members of parliament possess regarding the extent to which their party's power is actually increasing or decreasing relative to competitors. By 2005, when the constitutional amendment lifting term limits was passed in Uganda, it was clear to MPs that the ruling National Resistance Movement's power remained high relative to opposition forces in the country. Over its nearly twenty years in power, the National Resistance Movement (NRM) had carefully controlled opposition forces through a "no-party" democracy system while simultaneously building support for itself through both the implementation of key policies and by constantly reminding voters of the unrest that plagued Uganda prior to the NRM's rule. Drawing on cues from their fellow MPs, their constituents, the media and other sources, the majority of NRM members of parliament deduced that the NRM's hold on power was secure for the foreseeable future.

Accordingly, we should find that the decision process and outcome regarding executive term limits in Uganda correspond to Strategy I as laid out in Chapter 2, where the electoral uncertainty that prompted the adoption of term limits in time period one has given way to a more certain political environment in time period two wherein incumbent party members feel secure in their party's hold on power. This change in incumbent party actors' perceptions of the degree and direction of their relative power affects many facets of debate on term limits, including the amount of leverage each category of actors possesses within the decisional context, the balance between actors' action and outcome preferences, and the strategies available to each group of actors. In the end, this perception of electoral certainty among Uganda MPs lead to the abolition

of executive term limits in specific, and a weakening of the rule of law in general due to the absence of the mechanisms of fear of replacement and ability to switch parties.

This chapter will open by constructing a more in-depth look at relative party strength between the incumbent National Resistance Movement and the opposition in Uganda which will combine public opinion data with an examination of the strategies all parties have employed over the post-1986 period to build support for themselves. After this, the remainder of the chapter investigates the dynamic interplay of actor perception, preferences, power and strategies that shaped the collective choice to undermine the rule of law in Uganda by not upholding key constraints on presidential power.

Relative Party Strength: Assessing the NRM and the Opposition

At the time of the vote to abolish executive term limits from the Ugandan constitution in 2005, the National Resistance Movement (NRM) and President Museveni had been at the helm of the Uganda state for nearly twenty years. During that time, the NRM had built a formidable political organization that dominated Ugandan public life from the lowest-levels of the local councils to the central government. Unlike most liberalizing African polities that introduced multi-party systems in the early-to-mid 1990s, the NRM maintained a no-party “movement” democracy from the time it seized power in 1986 up until shortly before the 2006 presidential and parliamentary elections. In this way, and through other tactics, NRM elites were able to contain and control opposition to President Museveni through this purportedly all-inclusive political system in which elections were theoretically based on individual merit rather than party politics. At the same time, internal divisions, a lack of resources and a history of political mismanagement weakened the appeal of opposition parties among voters who valued political

stability above all else. As a result, opposition forces were not able to develop a clear and plausible alternative to the ruling coalition, which later profoundly structured the choice of strategies available to members of parliament at the time of the term limit vote.

Available data demonstrates that the relative strength of the National Resistance Movement-Organization (or NRM-O, as the Movement-affiliated party has been dubbed since the return to multi-partyism) grew substantially vis-à-vis Ugandan opposition parties in terms of its ability to garner public support and win national elections over opposition parties in Uganda between the adoption of term limits in 1995 and the time of the parliamentary vote to lift executive term limits in 2005. The quantitative analysis in the preceding chapter measured relative party strength by the difference in the percentage of votes (or seats where vote-share data is not available) won by the incumbent and the main opposition party in all parliamentary elections following the implementation of executive term limits in the country. The data from Uganda²⁹⁷ reveals that NRM-aligned MPs captured just over a majority (approximately 57%) of the seats in the 1996 parliamentary elections²⁹⁸ and increased their share to 78% of seats in the 2001 elections.²⁹⁹ By the February 2006 parliamentary election, which occurred just seven months after executive term limits were removed from the constitution in July of 2005, the NRM-O won 191 out of 284, or 67.3%, of the legislative seats up for grabs, which at first looks like a decrease over 2001 levels. However, the actual number of seats controlled by the NRM-O is in fact even higher than 191, as most of the candidates who lost NRM-O primary elections but later won a seat as one of the 37 Independent parliamentarians signed a “memorandum of

²⁹⁷ As mentioned above, Uganda was officially a “no-party” system from 1986 until 2006. As a result, there is no official data available on the seat or vote shares of parties during this time, since all candidates ran as individuals. However, estimates by close observers of Ugandan politics and declarations of NRM seat shares by President Museveni himself in 2001 allow us to approximate the seat share of the NRM in the 1996 and 2001 elections.

²⁹⁸ Uganda, African Elections Database- http://africanelections.tripod.com/ug.html#1996_Parliamentary_Election

²⁹⁹ Wasike, Alfred 2001. “Movemnent has 230 MPs – Museveni,” *The New Vision*, Kampala, Uganda. 1 July 2001.

cooperation” with the NRM-O shortly after the election,³⁰⁰ making the actual proportion of the National Assembly controlled by the NRM close to 80%. Thus, compared to the 37 seats (13%) captured by the largest opposition party, the Forum for Democratic Change (FDC), in 2006 the NRM-O enjoys a very asymmetric balance of power in their favor.

Moving beyond electoral returns, public opinion data gathered between April and May 2005,³⁰¹ less than one year before the 2006 elections, demonstrates similar strong support for the NRM over the opposition among Uganda constituents. When asked to rate their level of trust in various political organizations and institutions, 72% of respondents reported trusting the Movement either “a lot”(47%) or “somewhat”(25%) compared to only 35% (12% “a lot”, 23% “somewhat”) claiming a similar level of trust in “opposition political parties” in general. At the other extreme, only 11% of citizens claimed to “not at all” trust the NRM, while a full 32% claimed no trust whatsoever in any/all opposition parties. Similarly striking, when subjects were asked if they “feel close to any particular political party,” 46% expressed an affinity for the NRM (a ten point increase from the 36% of respondents who expressed feeling close to the NRM in the previous survey conducted in 2002), whereas the main opposition parties- the Uganda People’s Congress (UPC), the FDC, and the Democratic Party (DP) only garnered six, four and three percent, respectively in 2005.

How exactly was the NRM/NRM-O able to build such a formidable political organization and why were none of the several opposition groups in the country able to challenge the NRM’s hold on power by 2006? The actions and strategies followed by both the NRM and opposition forces within the Ugandan politico-historical context needs to be closely examined in order to understand the causes of this asymmetry within the party system leading up to time that the vote

³⁰⁰Kiiza, Julius, Sabiti Makara and Lise Rakner. 2008. *Electoral Democracy in Uganda*. Kampala: Fountain Publishers. p. 291

³⁰¹ All data from Round 3 Afrobarometer Survey in Uganda, 2005. www.afrobarometer.org

on the executive term limits was held. This analysis will begin with an exploration of the origins, organization and policies implemented under the Movement political system that have allowed the NRM to become a dominant party in the present era. Next, the analysis will turn to an investigation of the main opposition forces in the country, namely the two historical, independence-era parties- the UPC and DP- and the newest opposition party, the FDC and the strategies they have pursued in their quest to increase their own support among the electorate. The goal of this section is to show how the NRM developed its strong position relative to opposition forces in the time preceding the third term debate in Uganda, thereby setting the structure of party competition in which members of parliament found themselves during the vote on the *kisanja* amendment in parliament.

The National Resistance Movement: Constructing Support

In response to the perceived rigging of the 1980 election by former President Milton Obote and his Uganda People's Congress (UPC) party, a group of twenty-six insurgents formed the Popular Resistance Army (PRA) (later rebranded as the National Resistance Army (NRA)) and took to the bush with the aim of overthrowing the UPC government (and later the Okellos' regime after they deposed Obote in 1985). Headed by Yoweri Museveni, the former leader of the Front for National Salvation (FRONASA), one of the Ugandan insurgent groups that joined the Tanzanian military to oust dictator Idi Amin Dada in 1979, and later the vice-chair of the Military Commission in the transitional government that was set-up shortly thereafter, the guerilla movement engaged in a brutal five-year civil war with UPC military forces primarily in the Luwero Triangle area of central Uganda.³⁰² After the NRA marched victorious into Kampala

³⁰² Carbone, Giovanni. 2008. *No Party Democracy?: Ugandan Politics in Comparative Perspective*. Boulder, CO:

in January of 1986, the guerilla movement faced the task of transforming itself into a civilian government, which became known as the National Resistance Movement (NRM).

Perhaps the most pressing task of the new NRM government was to build national support for its authority. Comprised mostly of Banyankole from the west and Buganda from central Uganda, the NRM leadership represented only a minority of regional interests and were thus viewed with suspicion by groups in the North and East, especially those like the Langi and Acholi who had been associated with the Obote and Okello governments.³⁰³ To build such support, and to make good on their pledge to bring democracy to all Ugandans made in their “Ten Point Programme” manifesto promulgated in 1985, the central NRM leadership decided to expand to the entire country the system of local-level democratic self-government that they had initiated in the Western areas they had controlled during the armed struggle. This unique form of participatory democracy, dubbed the “movement system,” consisted of five levels of local government bodies called “resistance councils” (RCs) that spanned the village (RC1), parish (RC2), sub-county (RC3), county (RC4) and district (RC5) levels. Villagers directly elected their nine-member village council while members of higher councils were selected by lower council seat-holders from among their own ranks. After years of enduring civil war, erratic dictators and general political upheaval, the construction of a political system that “responded to a widely held desire by Ugandans that they should be permitted to participate effectively in their governments”³⁰⁴ brought the NRM regime much popular support across the various regions of the country. Even though the system lost some of its local autonomy in 1987 when legislation

Lynne Rienner, pp. 18-19.

³⁰³ Moehler, Devra. 2008. *Distrusting Democrats: Outcomes of Participatory Constitution-Making*. Ann Arbor: University of Michigan Press. p. 47

³⁰⁴ Kasfir, Nelson. 2000. “Movement Democracy, Legitimacy and Power in Uganda,” *No Party Democracy in Uganda: Myths and Realities*, J. Mugaju and J. Oloka-Onyango, eds. Kampala, Uganda: Fountain Publishers, p. 66

was passed to bring the RCs under greater central NRM government control, the NRM's implementation of direct democracy "offered it the most immediate and... useful technique it could credibly deploy to broaden its appeal among groups with whom it had few social connections."³⁰⁵

While it is clear that the NRM's introduction of the regional council system helped the regime win widespread support among the population, additional NRM actions aimed at strengthening its own real and perceived authority and popularity among voters also contributed to its growing dominance in Ugandan public life as it morphed from being an "interim arrangement" to a permanent political organization. For example, the program of political education called *chaka mchaka* that had been started by the NRA during the guerilla war to build support for the group within the territories the NRA controlled was expanded after 1986. The goal of these programs was twofold: 1) to teach people not to fear the gun and provide basic military training to community defense organizations and 2) to teach people the history of Uganda according to the NRA/M, which painted traditional political parties as being responsible for all of Uganda's problems, thereby justifying the NRMs continued restriction of party activity.³⁰⁶ Civil servants such as teachers, soldiers, bureaucrats and employees of parastatals were expected to attend such programs and Resident District Commissioners were tasked with organizing trainings for the general population around their districts.³⁰⁷ The *chaka mchaka* program was highly effective as, according to a senior NRA officer, "[q]uite apart from

³⁰⁵ Kasfir, p. 65

³⁰⁶ Bouckaert, Peter. 1999. *Hostile to Democracy: The Movement System and Political Repression in Uganda*. New York: Human Rights Watch. p. 66

³⁰⁷ *Ibid.* p. 67

educating people about the aims and objectives of the NRM, political education was a very effective way of winning support for the Movement.”³⁰⁸

Furthermore, the NRM ingratiated itself to many citizens in 1993 by formally restoring the traditional regional monarchies that had been abolished by the first Obote regime in 1966, including the Kabaka, the Buganda king and the kingships of Toro, Bunyoro, and Busoga. Although resurrected only as “cultural institutions,” meaning that the monarchs were prohibited from engaging in politics, the reinstatement of the four kingdoms gained the NRM much popular support, especially in Buganda, which had the added benefit of simultaneously weakening the appeal of the Democratic Party since the central Buganda region was its former stronghold.³⁰⁹ Other popular policies and initiatives, such as the introduction of free primary education for all children, the regular, relatively peaceful holding of elections, and a participatory national constitution-making process also lead many citizens to feel that the NRM government was more responsive to their needs and views than previous governments had been.³¹⁰

Finally, perhaps the most important way that the Movement gained the trust and support of constituents was to usher in a period of relative political stability and peace in much of the country wherein citizens feel safe sleeping in their homes³¹¹ and engaging in daily life. Following decades of repressive rule, dictatorial decrees, wanton political detentions and killings and civil war under Obote I and II and Amin, “the guaranteeing of relative security which had long eluded the area, must be an important, if not the critical factor explaining the lack of

³⁰⁸ *Ibid.* pp. 66-67

³⁰⁹ Oloka-Onyango, J. 1997. “The Question of Buganda in Contemporary Ugandan Politics,” *Journal of Contemporary African Studies*, 15,2: 180

³¹⁰ Though, see Moehler, 2008 for a nuanced look at the ways in which participating in the constitution making process impacted citizens’ trust in various NRM government institutions.

³¹¹ During the turbulent times under Obote II, many Ugandans report having to sleep in the bush to nighttime assaults on their dwellings by any number of forces such as soldiers, rebel groups, police or petty thieves. See Moehler, 2008, p. 50.

opposition to Museveni's political project and the absence of an effective autonomous democratic movement.”³¹²

Besides attempting to build support for its rule among constituents, the NRM also sought to strengthen itself and weaken opponents by designing and later altering the institutions of governance in its favor. Perhaps the most austere NRM strategy for hindering political opposition was the fact that the Movement system was developed as an officially a “no-party” system. The first act by the provisional parliament that was formed in 1986 by NRM officials was to issue Legal Notice No. 1/1986, which, among other things, placed severe restrictions on the activities of political parties.³¹³ Even though parties were still allowed to exist in name and maintain a national office in Kampala, in reality parties were prohibited from engaging in politics as they were forbidden to have branch offices close to constituents, were not allowed to hold rallies or other public events and were barred from sponsoring candidates in elections. As a result, candidates in all elections from the village RCs up through the national parliament were elected on “individual merit” rather than along party lines. The NRM leadership justified this *de facto* ban on political parties in two ways : 1) by arguing that the turbulence and violence in Uganda's post-independence period had been brought about by the ethnic and religious divisions enshrined in the Democratic Party (DP) and the Uganda's People's Congress (UPC), the two long-standing national parties in the country, and 2) by maintaining that parties are only necessary in advanced industrial societies with socio-economic cleavages, not polities like Uganda where there is only one class- the peasantry.³¹⁴ In place of a multi-party dispensation,

³¹²Ssenkumba, John. 1998. “The Dilemmas of Directed Democracy: Neutralizing Ugandan Opposition Politics Under the NRM,” *The Politics of Opposition in Contemporary Africa*, A. Olukoshi, editor. Stockholm: The Nordic Africa Institute. p. 184

³¹³ Carbone, p. 36

³¹⁴ Kasfir, p. 69

the NRM proclaimed that the Movement system was a “broad-based” government that includes all Ugandans under the movement banner.³¹⁵

However, even though the NRM claimed to be implementing a no-party system, the Movement leaders often acted counter to this philosophy in practice by taking steps to increase the power of groups and individuals deemed to be sympathetic to the current NRM leadership and by fusing its organization with the state apparatus. As a case in point, before the 1996 elections, the NRM bolstered itself and weakened opposition forces by institutionalizing permanent seats for some of its main social constituencies including women, workers, army and youth into parliament, thus guaranteeing itself “a working parliamentary majority even before the election was held.”³¹⁶ The NRM leadership went even further in 1997 by promulgating the “Movement Act” which served to change the NRM organization from an interim transitional government (which legally ceased to exist following the 1996 presidential and parliamentary elections) into a de facto one-party state. Among other things, the Act required all Ugandan adults to be members of the Movement, stipulated that the Movement Secretariat would be funded by state monies, and generally “formalized a growing trend in which Movement interest were gradually being superimposed onto the logic of the state in ways that made it [the state]... the purveyor of NRM political objectives.”³¹⁷ This fusing of the NRM with the state meant that the Movement could use state administrative personnel (i.e. resident district commissioners, local council representatives) to essentially campaign for the NRM’s preferred candidates in elections and the NRM’s preferences in popular referendum. Furthermore, the Movement was also able to use the organs of the state, including the police and courts, to circumscribe individuals who

³¹⁵ Museveni, Yoweri. 1997. *Sowing the Mustard Seed: The Struggle for Freedom and Democracy in Uganda*. London: Macmillan. p.196

³¹⁶ Ssenkumba, 1998, p. 185-186

³¹⁷ Rubongoya. Joshua. 2007. *Regime Hegemony in Museveni’s Uganda*. New York, NY: Palgrave Macmillan. p. 139

demonstrated opposition to the central leadership's control. Most notably, this was demonstrated by the treatment endured by Kizza Besigye, an NRM "historical" who challenged Museveni in both the 2001 and 2006 presidential elections and "faced intimidation, harassment and recrimination"³¹⁸ throughout both of his campaigns, including being arrested on a multitude of charges ranging from treason to rape prior to the 2006 contest.

Through the use of popular policies, institutional safeguards and a well-developed patronage network,³¹⁹ the NRM managed to build a solid enough base of support to allow it to become the dominant political force in Uganda. In fact, the NRM leadership was so sure of its strength that it approached the 2006 legalization of multipartyism not with trepidation, but used it instrumentally as an opportunity to root out troublemakers within the Movement. Yet, the NRM was also helped out by the failings of opposition forces in the country to develop a plausible ruling alternative to the Movement organization in the eyes of constituents. A discussion of these opposition groups follows.

Opposition Parties: Lost Legitimacy

While the NRM leadership was skilled at building support for itself, it was also bolstered by the relative decline of opposition forces. A combination of restrictive NRM policies regarding political party activity and the internal weaknesses of the opposition forces themselves created a situation by 2005 in which it was widely perceived that no opposition group could meaningfully challenge the NRM for political control.

At the time of the NRM's ascent to power in 1986, the only visible alternative sources of political organization were the two historical political parties that had survived into the 1980s,

³¹⁸ *Ibid.* p. 148

³¹⁹ See Rubongoya, 2007, pages 162-168 for a description of the NRM's use of clientelism to sustain regime support.

the Ugandan People's Congress (UPC) and the Democratic Party (DP), both of which had been active in Ugandan politics since the 1950s and became the main parties in post-independence Uganda in the early 1960s. The overtly Protestant UPC had been the dominant force in the UPC-Kabaka Yekka Party coalition that formed the first government in 1962 and had risen to power twice on its own under President Milton Obote from 1964-1971 and again between 1980-1985, while the Catholic-Dominated DP had served as the loyal opposition during the periods of multi-party politics both before and after the Idi Amin years (the military dictator that ruled Uganda from 1971-1979). Yet, the economic mis-management, widespread corruption, ethnic and sectarian infighting and the overt use of coercive violence against both political opponents and regular citizens by all post-colonial governments resulted in a situation where political elites were either "unable or unwilling... to build institutions that restrain state power, promote trust and accountability, and maintain reciprocal state-society relationships."³²⁰ As a result, by 1986, the historical political parties entered the NRM era already suffering from very low levels of legitimacy among the population at large, which heightened the appeal of the NRM's no-party philosophy among a brutalized and fearful population.

Once in the post-1986 era, the historical parties faced grave difficulties constructing an alternative to NRM rule. Given the constraints the Movement government placed on political party activity, the DP, UPC and smaller parties such as the Conservative Party (CP) had to decide how to conduct themselves in order to survive yet also challenge the movement system. As part of the broad-based government of incorporation, many prominent members of the traditional parties were offered cabinet positions in the NRM government in the late 1980s. While DP and CP officials initially wagered that cooperating with the NRM leadership would

³²⁰ Rubongoya, 2007. p. 56

yield the most influence and agreed to join the cabinet,³²¹ top UPC representatives choose to remain outside of the Movement structure and continue to denounce the NRM as an illegal regime. Yet, neither of these strategies proved successful in sustaining a substantive and strong oppositional force.

The UPC suffered severe internal divisions by the early 1990s as a younger faction within the party lead by Cecilia Ogwal began to defy Obote and the senior party leadership and compete in elections for RC and National Resistance Council (as the Parliament was known in 1989) seats as well as Constituent Assembly elections in 1994. This infighting, combined with the disintegration of local-level UPC branch organizations and a loss of party funding (due to the fact that citizens were fearful of buying opposition party cards under NRM rule) lead to the weakening of the UPC apparatus under the Movement system.³²² Similarly, the Democratic Party, which was already weak due to its abuse by the UPC government in the early 1980s, also suffered under the Movement dispensation. By the early 1990s, the NRM had reduced the number of DP ministers in cabinet and the DP leadership began to rethink their alliance with the NRM. In reaction, DP affiliates boycotted the 1996 parliamentary elections, but this only served to weaken the DP rather than hurt NRM in any meaningful way, as the DP “had nowhere to go after it had opted out of parliamentary elections.”³²³

Organizational capacity was a challenge for both the UPC and the DP as both parties had lost much of their local party branch apparatus over time. This resulted in a diminished ability to run candidates for office in every constituency. For example, in the 2006 elections, UPC only ran candidates in 34 percent of the constituencies with DP faring even worse at only being able

³²¹ Examples of opposition leaders who joined the NRM cabinet in the early years include Paul Ssemogerere and Zachary Olum of DP and Jehoash Mayanja-Nkangi of CP. See Carbone, p. 109

³²² Carbone, 117; 130-133

³²³ Carbone, p. 112

to compete for 31 percent of available seats.³²⁴ Even in elections where candidates sympathetic to DP and UPC did run, it was impossible for the party to limit the number of “pro-multiparty” candidates on the ticket in any one constituency, meaning that the sole NRM-backed candidate generally prevailed against the disorganized opposition.³²⁵ To try to build some based of party support, in the 1990s, DP relied heavily on their legal ancillary organizations, including their NGO dubbed the Foundation for African Development (FAD) and their youth wing, the Uganda Young Democrats (UYD), to maintain a DP presence in the country. While these organizations enjoyed a modicum of success, their paltry funding was no match for the state-funded NRM apparatus.

The low levels of support for the two traditional parties since the NRMs rise to power is demonstrated in both election returns and public opinion data from the Movement era. Despite the fact that the 1996 elections were officially “no-party” elections, Mbabazi et al estimate that only 10% of MPs elected that year could be considered as representing the “opposition.”³²⁶ Non-Movement affiliated MPs fared a bit better in 2001, when, according to President Museveni’s own count, 230 pro-Movement parliamentary candidates were elected out of 282 seats, leaving 52 seats (18.5%) for all non-Movement affiliated MPs.³²⁷ However, the fact that this 18.5% is split between all opposition groups (loyalists of UPC, DP, CP and the newly formed Reform Agenda (see below)) means that no single opposition group was capable of mounting a serious challenge to the NRM on its own. Furthermore, public opinion data from the Afrobarometer surveys highlighting the low (and falling) levels of support for opposition parties during the

³²⁴ Kiiza et al, 2008. p. 223

³²⁵ Carbone, p. 143-144

³²⁶ Mbabazi, Pamela et al. 2001. “Ugandan Elections 2001: Lessons for/from Democratic Governance” paper presented at the Africana Studies Association (ASA) annual conference, Houston, TX, December 2001 (as cited by Rubongoya, p. 126)

³²⁷ “Uganda: Multi-party Politics “Rotten Sectarianism,” President Museveni Says.” *Sunday Vision* (Kampala, Uganda) July 1, 2001.

Movement era. While 32 percent of respondents demonstrated some modicum trust in “political parties” in the 2000 survey, by 2002, only 16 percent report having trust in “opposition groups.”^{328, 329} Also as part of the 2000 survey, respondents were asked “when you hear the term political party, what is the first thing that comes to your mind?” While the highest number of subjects (18 percent) gave the name of one of the traditional parties (UPC, DP, etc.), a similar number (also 18 percent) equated political parties with violent conflict (using words such as war, division, hatred, and even death).³³⁰ In fact, 76 percent of respondents agreed with the notion that “[b]y causing conflict and confusion, political parties undermine national unity”³³¹ Clearly, forces that are so widely perceived to be synonymous with such unpleasant feelings cannot represent a viable political alternative to the ruling regime.

With the traditional parties delegitimized, the final source of potential political opposition to the NRM regime sprang from within the organization itself. In 2001, a political pressure group calling itself “Reform Agenda” emerged lead by Dr. Kizza Besigye, longtime NRA/M member and Musveni’s personal physician, who won 28% of the vote against Museveni’s 69% in the 2001 presidential elections. When opposition parties were legalized in 2004, the Reform Agenda organization formed a coalition with the Parliamentary Advocacy Forum (PAF), a group of NRM MPs who had grown dissatisfied with the lack of internal democracy in the NRM, and the National Democratic Forum (a small party headed by Chapaa Karuhang) to create the Forum for Democratic Change (FDC). The FDC registered as a party just fifteen months before the

³²⁸ Note the change in language between the two surveys (political parties in 2000, opposition groups in 2002) make these questions not fully comparable. Yet, overall, the main point that trust in non-Movement political bodies was low in this period is still valid.

³²⁹ Logan, Carolyn J., Nansozi Muwanga, Robert Sentamu, and Michael Bratton. 2003. “Insiders and Outsiders: Varying Perceptions of Democracy and Governance in Uganda.” Afrobarometer Working Paper, No. 27.

³³⁰ Bratton, Michael and Gina Lambright. 2001. “Uganda’s Referendum 2000: The Silent Boycott.” Afrobarometer Working Paper, No. 6. www.afrobarometer.org

³³¹ *Ibid.* p. 18

final vote on the amendment to repeal executive term limits was taken in Parliament in September of 2005 and eighteen months before the elections in February 2006. While Besigye, the FDC's presidential candidate, managed to win 37 percent of the vote in the 2006 presidential elections, his personal success did not translate into great dividends for the party's parliamentary candidates, as the FDC only won 13 percent of the seats in the legislature.

The FDC's difficulty in forming a plausible ruling alternative to the NRM across the board has been attributed to many causes, including the short time frame in which the FDC had to mobilize supporters, the fact that the party had no unifying force beyond the desire to oust Museveni, had no distinct ethnic constituency (Besigye was from the same region as Museveni), few links to society and had a platform that was similar to the NRM's platform (save for the FDC's desire to re-implement executive term limits). The party was unable to establish a network local party branches before the 2006 election, which resulted in the FDC only being able to run candidates in 127 (59%) of the 215 constituencies (by comparison, the NRM ran candidates in 214 of the 215 races).³³² Furthermore, campaign funding was a problem for the FDC. Whereas Movement candidates were given between US\$ 2 million and US\$ 25 million for their campaigns, the FDC only promised US\$ 1.5 million for its parliamentary hopefuls and many candidates report never even receiving these promised funds.³³³ One FDC official blames the FDC's struggle to raise adequate funds on the de facto criminalization of supporting an opposition party. She reports that businesses who give to the FDC may suddenly find themselves audited by the Uganda Revenue Authority and civil servants who donate to the FDC could see their jobs given to "loyal" NRM cadres.³³⁴

³³² Kiiza et al, 2008. p. 223

³³³ Kiiza et al, 2008. p.246

³³⁴ Kiiza et al. 2008, p. 246.

In sum, NRM strategies combined with the internal weakness of opposition forces created a situation in Uganda where the electoral arena went from highly uncertain in the early 1990s when term limits were first adopted to relatively certain by the time of the vote on the executive term limit question in 2005. The relative strength of the NRM vis-à-vis the opposition parties thus created the structural backdrop against which the debate over the repeal of executive term limits would take place. This strong position of the NRM interacted with broader patterns of competition in Uganda to influence the utility of the different choices MPs could adjudicate between in arriving at their final decision on the term limit question. How exactly relative party strength shapes the strategies available to actors in this situation will be explored later in the chapter. However, before that analysis can be undertaken, we must first examine the history of the term limit debate in Uganda.

The Executive Term Limit Debate in Uganda

The issue of amending article 105(2) to remove the two term limitation from the Ugandan constitution was first officially raised in March of 2003 at the meeting of the NRM National Executive Committee (NEC), which at the time was composed of all cabinet ministers and members of parliament, District NRM chairpersons and other members of the national party organ. According to many then-ministers and MPs, the meeting was ostensibly called in order to discuss the prospect of “opening up” the political space to allow for a multi-party system.³³⁵ An ad hoc committee of NEC had been formed in December 2001 to explore the “performance of the Movement system in light of current political trends/developments, including the calls to open up to political party pluralism,”³³⁶ and the March NEC retreat was to be the forum where the committee shared

³³⁵ Author interview with NRM member of parliament, 2/29/2008, Kampala, Uganda

³³⁶ National Executive Committee. 2003. “Report of the ad-hoc committee set up by the 6th meeting of the National

their initial findings with the entire NEC before their final report was released in April 2003. However, on the second day of the meeting, many MPs, including cabinet ministers close to the President, were taken by surprised when a number of District chairpersons rose to propose reconsidering the two-term limit on the presidency as stipulated in the 1995 national constitution. While these district-level officials claimed to be forwarding the proposal based on the will of their constituents, many Movement insiders claim that the NRM “machinery” was used to “mobilized the district chairs to come and raise the issue of term limits.”³³⁷ Jaberu Bidandi Ssali, the Minister for Local Government at the time, maintains that some of this mobilization even occurred at the NEC meeting itself, saying that “during the night, members of the delegation were coming and going from the President’s tent, coming and going.... There was money changing hands, no question about that, overnight.”³³⁸ implying that the very same district chairpersons who had personally told him the day before that there was no popular will in their districts to “tamper with” the constitution and lift term limits changed their stance overnight due to a personal and monetary appeal by the President himself.

The reaction among the members of parliament to the proposal to abolish executive term limits was decidedly mixed, with many (some even estimating a majority)³³⁹ of MPs expressing initial opposition to the move at the NEC meeting, including high ranking ministers such as Ssali, Amanywa Mushega, Mugisha Muntu and others who spoke out that day in front of the NEC meeting.³⁴⁰ However, between this 2003 NEC meeting and the parliamentary vote on the term limit question in the summer of 2005, many parliamentarians would alter their stance and ultimately choose to back *kisanja*. What caused this change of heart in an overwhelming number of MPs? The next sections will lay out in detail the contours of the choice confronting members of parliament regarding the term limit amendment and show

Executive Committee.” Kampala, Uganda: Government Printers.

³³⁷ Author interview with NRM MP, 2/29/2008, Kampala Uganda

³³⁸ Author interview with Jaberu Bidandi Ssali, 2/19/2008, Kampala, Uganda

³³⁹ Author interview with NRM MP, 2/29/2008, Kampala Uganda

³⁴⁰ Makara, Sabiti, Lise Rakner, and Lars Svåsand. 2009. “Turnaround: The National Resistance Movement and the Reintroduction of a Multiparty System in Uganda,” *International Political Science Review*, 30, 2: 193.

how the outcome of their final decisions was greatly conditioned by their perceived dominance of the NRM in national political life.

Perceptions of Party Strength

The discussion of party strength earlier in this chapter sought to use objective measures of party organization and popularity (including electoral returns, public opinion data and statistics on the number of candidates run) supplemented by examples of strategic successes and failures by various parties that drove the relative increase in NRM strength against opposition forces. However, the question remains as to how Movement MPs in Uganda perceived the NRM's strength vis-à-vis both the traditional and nascent opposition forces in the country at the time of the term limit vote in 2005. Do they feel that other parties pose a *threat of replacement* to their party, or do they feel that their party's hold on power is firm? If they misperceive their party's strength and feel that an opposition group represents a plausible ruling alternative, they are likely to select a different strategy with regards to their stand on *kisanja* than they would if they correctly perceive their party's asymmetric power advantage.

By and large, Movement MPs did recognize the strong electoral advantage their party's relative strength gave the NRM over newly registered opposition parties. When asked if they feared that NRM would lose the presidency, MPs overwhelmingly responded that there was no such concern within their circles. As one MP put it, "if President Museveni was not allowed to stand another NRM [candidate] would have won,"³⁴¹ signaling her belief that no other party could challenge the Movement as a plausible governing alternative. MPs report gaining information about citizens' party preferences from visiting their constituencies and talking with

³⁴¹ Author interview with NRM MP, 2/12/08, Kampala Uganda

local leaders and voters,³⁴² from polls and surveys done by the major newspapers in the country³⁴³ and by talking amongst each other to determine how many MPs would defect to the FDC or other parties once opposition parties were officially legalized. From these sources, many members of parliament deduced that NRM was by far the most popular party among voters because “some constituencies were not ripe to accept opposition to the NRM. So,... [m]any MPs realized that if they were to go with the opposition, they would lose their constituencies.”³⁴⁴ As a result, it was fairly clear to the average NRM MP that their party would retain power for the foreseeable future.

Preferences of Members of Parliament

How does knowing that their party is stronger than all others in Uganda lead NRM members of parliament to collectively decide to eliminate the institution of executive term limits? One could hypothesize that a party like the NRM that did not need the incumbency advantage boost that lifting term limits would provide should keep such constraints in place in order to uphold a veneer of good governance for both constituents and international donors. However, since the opposite outcome ensued and term limits were jettisoned in both in the Uganda case and in a host of other countries where the ruling party was dominant (as the medium-n analysis in Chapter 4 demonstrates), it is necessary to unpack the decision-making process of Movement MPs in order to understand how the party system structure described above interacted with actor preferences in a way that lead to the amendment of Article 105(2) in the Ugandan constitution.

³⁴² Author interview with FDC MP, 1/17/08, Kampala Uganda

³⁴³ Author interview with FDC MP, 1/29/08, Kampala Uganda

³⁴⁴ Author interview with FDC MP, 1/17/08, Kampala Uganda

As Chapter 2 established, actors often have competing preferences surrounding one issue or decision. The *kisanja* decision faced by the Movement-affiliated MPs was no different in this regard. In making the choice whether to support or oppose Constitutional Amendment Bill No.3 of 2005, members had to “arbitrate between immediate rewards, conscience and constituency”,³⁴⁵ according to one MP. This section explores the competing preferences that members of Parliament faced as they made their final decision on the term limit issue.

Outcome Preferences

As discussed in Chapter 2, in situations in which a group of actors is tasked with making a collective decision, there are actually two types of preferences that each individual actor holds: 1) an outcome preference and 2) an action preference.³⁴⁶ An actor’s outcome preference is conditioned by her views regarding the *broad consequences that may result in the aftermath of the decision*. Put more simply, it is a matter of what end result the actor favors for ideological, strategic or pragmatic reasons. This is what choice the actor would choose in a vacuum where there was no cost associated with choosing one outcome over another. In terms of parliamentarians voting on constitutional matters, their outcome preference is to adopt the constitutional language that they feel is most concomitant with their paramount interest, without reference to how other stakeholders may think of and/or react to their choice. Of course, MPs may have a multitude of competing interests that complicate their outcome preference formation. Uncovering the range of these interests is key for understanding the ultimate collective choice of Ugandan MPs to side with the President and remove the two-term limit on executive tenure.

³⁴⁵ Author interview with FDC MP, 1/29/08, Kampala Uganda

³⁴⁶ Austen-Smith, David. 1992. “Strategic Models of Talk in Political-Decision Making” *International Political Science Review* Vol 13, 1: 45 as cited in Ermakoff, p. 184

Many Ugandan parliamentarians were clearly torn on whether they preferred executive term limits to remain in force or be rescinded at the conclusion of the parliamentary vote because of a dilemma between what they felt as their ideological (some would even say moral) commitment to democracy and their strategic political desire for the NRM to retain its strength well into the multi-party era. One NRM woman MP maintains that for herself and many of her colleagues, their consciences dictated that “it was more important to look to Uganda’s future as a country and uphold the constitution than to consider any individual benefit in the present.”³⁴⁷ Yet, the same MP also described her nervousness regarding the future direction of the party if President Museveni was made to step down as national and party leader. She wondered whether a new NRM chief would be able to hold the party together in the long run. Another NRM parliamentarian linked upholding the constitution to ethical considerations, saying that lifting term limits was, in fact, “immoral” because it went against the spirit of constitutionalism. She explained that “[a]n article in the constitution that has not been tested, it is wrong, it is morally wrong [to remove it]. For most of us, that was it, not because we didn’t like the President. If an article hasn’t been tested, why remove it?”³⁴⁸ Yet, she also mentioned more personal considerations such as her own legacy as a politician, saying “I have stood up on what I stand for. It should be clear and we should leave a legacy at the end of the day. People have got to know who I am, the President inclusive.”³⁴⁹

However, other NRM colleagues took a more strategic line in arguing that there were many pragmatic points MPs had to consider when deciding on term limits (and by extension, whether or not President Museveni would be allowed to continue as President) due to the

³⁴⁷ Author interview with NRM MP, 2/7/08, Kampala Uganda

³⁴⁸ Author interview with NRM MP, 2/12/08, Kampala Uganda

³⁴⁹ Author interview with NRM MP, 2/12/08, Kampala Uganda

consequences the decision was likely to have both for the country and the party. In describing these wide-ranging considerations, one Movement MP declared:

“What is the future of our country? How do we move? Because we have a party to protect, we have our mission to achieve. So, people had to consider so many things. One, you consider the stability of the country, two you consider now the mileage of the struggle that you have done, you consider mission and now the strategy. So the debate went on and on, and I think many people decided that for stability, for us to remain focused, to maintain the mileage and in order to carry on with our strategy, we need to go that way [lift executive term limits] for the time being.”³⁵⁰

He expanded these sentiments by explaining that his concerns for the stability of the country were based on the fact that President Museveni personally did not want to give up the presidency and that he had alluded to the fact that if the lifting of term limits was rejected that he could use his command of the army to retain power. This, combined with the instability caused by the ongoing war with the Lord’s Resistance Army in the North, convinced this MP that it was better to lift term limits in order to keep peace in a country that had been so scarred by violent conflict in the past. Echoing his sentiments, another NRM MP maintained that a strong president was needed to guarantee stability in the absence of underdeveloped institutions in the country and that President Museveni was just such an “anchor and symbol of stability.”³⁵¹

The tension between these interests facing Movement members was apparent to even those outside of the NRM fold. One Independent MP describes her observations as such:

“What I saw at that time was a genuine concern amongst certain NRM cadres despite the rigidity and despite the pressure within. People wanted to stand on principles of democracy. Because, for example, Eriyah Kategaya said that ‘I was in the bush. The principles that compelled us to fight were based on democracy and democratic principles. We promised ourselves these benchmarks, and I cannot be party to breaking the very benchmarks that took me to the bush.’ The same thing was echoed by Winnie Byanyima, was echoed by Miria Matembe, was echoed by Bidandi Ssali.”³⁵²

³⁵⁰ Author interview with NRM MP, 2/29/08, Kampala Uganda

³⁵¹ Author interview with NRM MP, 2/13/08, Kampala Uganda

³⁵² Author interview with Independent MP, 1/21/08, Kampala Uganda

Yet, this same Independent MP also remarked that her Movement counterparts were also very nervous of an eventual split within the NRM if President Museveni no longer held the top office.³⁵³ Even if the split did not occur right away or did not jeopardize the NRM's chances of retaining the presidency and the majority of seats in the legislature in the foreseeable future (due to the weakness of the opposition), MPs feared the uncertainty that would result from shifting coalitions within the party. Would they personally be on the wrong side of the new NRM leadership? Would they be able to retain their ministerial posts or their other positions of favor within the party apparatus? Would they be pushed out of the party all together? Such fears were very real in the minds of many NRM officials.

Overall, these competing interests held by and between Movement-affiliated members of parliament resulted in a mix of outcome preferences within the group. As MPs discussed their stances on the third term issue amongst each other, many report that there was a definite split with significant numbers of parliamentarians favoring each outcome. However, based purely on outcome preferences, it initially appeared that those MPs who preferred to retain term limits posed a formidable challenge to those who preferred the vote to result in the lifting of term limits. Members of the Parliamentary Advocacy Forum (PAFO), an informal caucus of moderate MPs who joined together in 2002 with the express goal to “safeguard constitutionalism,”³⁵⁴ took it upon themselves to mobilize MPs to vote “no” on the impending *kisanja* vote. As PAFO members polled their parliamentary colleagues in one-on-one meetings through 2004 and early 2005,³⁵⁵ they found that far more than the 93 MPs needed to block the passage of the amendment said that they preferred term limits to be upheld in Uganda at the end of the day. However, outcome preferences are not the only preferences on which actors base

³⁵³ *Ibid.*

³⁵⁴ Author interview with FDC MP, 1/29/08, Kampala Uganda

³⁵⁵ *Ibid.*

their ultimate choices in collective decision-making environments. In order to understand why term limits were lifted in Uganda despite the fact that less than the required two-thirds of MPs preferred this outcome, it is necessary to also explore the action preferences of Ugandan members of parliament.

Action Preferences

Apart from their personal outcome preferences, actors who are part of a collective decision must also be cognizant of a second type of preference: their action preference. At its most basic, an action preference is the behavioral stance towards the decision that each actor prefers to take in light of the consequence s/he expects to face from the various stake holders. As such, an actor's action preference is rooted in his/her perception of where other stakeholders (the reference group) stand on the issue and their ability to exact punishment on those who take the opposite stand.³⁵⁶ In addition, each actor's action preference is shaped by his/her individual threshold, which is the propensity of an actor choose a course of action that deviates from the behavioral stance of the majority of the reference group. As Ermakoff concisely wrote, "isolations carries a cost."³⁵⁷ Is the actor willing to take a stance that is opposed by all other actors (an absolute threshold)? If not, what proportion of actors must demonstrate a willingness to undertake one line of action before the actors in question will exhibit a similar behavioral stance (a relative threshold)? Thus, an actor chooses an action preference after assessing the costs of each choice based on both an assessment of the reference group's future behavior and his/her own action threshold. In short, if an actor's outcome preference is conditioned by her views regarding the *broad consequences in the aftermath of the decision*, then her action preference is conditioned by

³⁵⁶ Ermakoff, Ivan. 2008. *Ruling Oneself Out: A Theory of Collective Abdications*. Durham: Duke University Press. pp. 191-192; 205

³⁵⁷ Ermakoff, 2008, 187

her perceptions of *personal consequences stemming from the performance of proclaiming one's choice*.

The action preferences of Ugandan MPs surrounding the *kisanja* debate is rooted in how they want others to see them voting on the term limit issue. This is because the way they vote has consequences for both their popularity among constituents (did s/he represent voters' position on the matter?) and their standing with the Movement leadership (did s/he vote with or against the party line?)³⁵⁸ These various considerations influence the cost and benefits of different action choices and lead to each actor to prefer one behavioral stance over another. Therefore, each of these referent group considerations, and how they interact with larger patterns of competition in the Ugandan electoral context, must be examined in turn.

Constituent Support

As elected representatives, MPs are concerned with how their constituents view them and the job they are doing representing local interests and preferences. Since the turn-over rate in the Ugandan parliament had been quite high in the previous two elections³⁵⁹ (for example, 50 incumbent MPs out of 214 failed to regain their seats in 2001 for a 25% non-reelection rate)³⁶⁰ and also because the next parliamentary election after the final November 2005 vote on term limits was set to take place just three months later in February of 2006, Ugandan MPs were especially cognizant of acting in accord with their constituents' interests on the issue of executive term limits in order to retain electoral support in the near term.

Public opinion regarding the executive term limit issue in Uganda was highly enmeshed with public opinion about President Museveni himself. Seizing on the 81% approval rating

³⁵⁸ Ermakoff, 184

³⁵⁹ Author interview with NRM MP, 2/29/08, Kampala Uganda

³⁶⁰ Europa Publications Limited. 2003. *Africa South of the Sahara*. London: Europa Publications Ltd, p. 1117.

President Museveni enjoyed³⁶¹ among large sections of the country, MPs report that pro-amendment forces sought to “make the issue personal, not about the institution of term limits.”³⁶² As a result, public support for Museveni to have a “third term” (as the issue was often termed in the Ugandan press even though the Bill, if passed, would allow the President to also run for unlimited terms) was quite high, reaching 70.5% in the rural areas as early as mid-2003³⁶³ and reaching an absolute majority, even when urban populations were included in the sample, by 2005.³⁶⁴ As a result, members of parliament, the majority of who represent rural constituencies, felt pressure to be recorded in the hansards, the public record of parliamentary proceedings, as supporting the president by voting to eliminate executive term limits. One member of parliament described the actual stakes for an MP who did not vote along with their constituency’s preference on allowing President Museveni to continue in office by revealing that in the “areas that adore President Museveni.... [t]hey would be seen in those areas as traitors!” Since being labeled a traitor is not generally good for re-election prospects, this was one factor that lead many MPs to form an action preference for voting to lift term limits.

Standing with the Movement Leadership

When describing how they reached their decision regarding the vote on term limits, almost every member of parliament interviewed stressed that an important factor in their assessment of whether or not to vote for the removal of executive term limits from the national constitution was a concern for how it would affect their standing within the NRM party. Member after member described how opposing the term limit amendment meant an almost

³⁶¹ Round 3 Afrobarometer Survey in Uganda, 2005. www.afrobarometer.org

³⁶² Author interview with NRM MP, 2/07/08, Kampala Uganda

³⁶³ Kakande, John. 26 June, 2003. “Forty-one percent Support Third Term” *New Vision*. Kampala, Uganda.

³⁶⁴ Round 3 Afrobarometer Survey in Uganda, 2005. www.afrobarometer.org

certain fate of being decampaigned by the Movement in the upcoming election. They explained that being “decampaigned” meant that the NRM would select and financially back a challenger to the errant MP in the NRM primary in an attempt to unseat the disloyal member even before the general election. The central Movement organs would even send the security agencies to the district to convince voters to cast their ballots for the other candidate.³⁶⁵ Beyond the prospects of losing their seat in parliament, one MP also observed that there was also a personal dimension to being decampaigned on grounds of disloyalty towards Museveni himself saying “so many of them could not stand the force of being de-campaigned by their ‘god-father.’”³⁶⁶

Beyond the threat of decampaigned MPs who opposed the term limit amendment, the Movement leadership also employed a host of other tactics that played to MP’s fears of losing their standing with the party. A number of high-ranking ministers who had publically spoken out against the third term after the initial proposal was forwarded in March of 2003, including Bidandi Ssali, Miria Matembe and Eriyah Kategaya, were dropped from the cabinet in a reshuffle just two months later,³⁶⁷ while other rank and file members who were deemed to be against the third term were removed from key parliamentary committees.³⁶⁸ MPs involved in PAFO or who were rumored to be against the amendment were also threatened with disciplinary action for breaches of the NRM Code of Conduct, which could result in expulsion from the party if the member was found in violation of the (deliberately vague) protocol.³⁶⁹ One MP also reported that the Movement leadership circulated provisional NRM candidate lists for the upcoming election in the week prior to readings of the Constitutional Amendment Bill in

³⁶⁵ Author interview with NRM MP, 2/07/08, Kampala Uganda

³⁶⁶ Author interview with NRM MP, 2/29/08, Kampala Uganda

³⁶⁷ Author interview with NRM Minister, 3/11/08, Kampala Uganda

³⁶⁸ Author interview with NRM MP, 2/12/08, Kampala Uganda

³⁶⁹ Author interview with NRM MP, 2/4/08, Kampala Uganda

Parliament, as if to remind MPs that the lists could be altered depending on the way members voted.³⁷⁰

In order to be able to back up these threats and monitor individual MPs' votes on the amendment, the Movement leadership first had to amend another related set of rules- the parliamentary voting procedures. From the commencement of the first elected Movement parliament in 1996, Rule 75(a) of the Ugandan Parliamentary Rules of Procedure had stipulated that: "There shall be secret voting in the House in respect of a Bill for an Act of Parliament to amend any provision of the Constitution."³⁷¹ However, when it became widely known in the halls of Parliament that PAFO had mobilized enough MPs to block the term limits amendment based on MP outcome preferences, Movement insiders sought to alter members' action preference calculations by repealing the secret voting provision in Rule 75 so that votes on constitutional matters, including the upcoming vote on the executive term limit, would be subject to an open vote (either by show of hands or by roll call, at the discretion of the Speaker). The logic within the NRM was that if the party was able to monitor the votes of individual MPs that parliamentarians would be compelled to favor their action preference of being seen as loyal to the party over any outcome preference they may have.

The motion to alter Rule 75(a) was moved by Honorable Nyombi Thembo in December 2004 and the Parliamentary Standing Committee on Rules, Privileges and Discipline produced both a majority and minority report on the motion in March of 2005. While the majority report recommended that the rule should be changed on the grounds that the public had a right to know how their member of parliament voted for reasons of accountability, the minority report, written by deposed Minister Miria Matembe, reasoned that the old rule allowed members to "vote

³⁷⁰ Author interview with Independent MP, 1/29/08, Kampala Uganda

³⁷¹ Government of Uganda. 1996. *Rules of procedure of the Parliament of Uganda: commencement: 30th July, 1996*. Kampala, Uganda: Government Printers.

without fear or favour,” and that “the timing of the motion, amidst the proposed amendments to the Constitution... shows that it is intended to intimidate or coerce Members of Parliament to vote for the lifting of the presidential term limit.”³⁷² Yet, even though many MPs interviewed agreed with the minority report regarding the suspect timing of the procedural change,³⁷³ the motion passed easily in April 2005. As a result, the NRM leadership could then enact a credible commitment to decampaign or otherwise discipline MPs who did not vote the party line on the term limits question.

Finally, the NRM leadership also employed a number of “carrots” along with the “sticks” described above in order to induce Members of Parliament to base their action preference on matters related to their standing within the Movement. MPs mentioned that offers of ministerial positions³⁷⁴ and other appointments, more funds for their constituency³⁷⁵ and additional campaign monies³⁷⁶ were some of the positive inducements that they were offered to increase their standing in the party if they voted to eliminate the limit on presidential terms of office. Some even report being personally telephoned by the President himself to “encourage” them to vote for the proposed term limit amendment.³⁷⁷ Lastly, perhaps the inducement most widely publicized by the Ugandan media was the Ushs 5 million (approximately \$3000) “facilitation fund” given to MPs regarded as being within the NRM fold. Officially the money was to be used by MPs to travel around their constituencies to inform and consult with citizens about the recently released Government White Paper that laid out the government’s position on a number of proposed constitutional amendments. However, many respondents viewed the sum as both a

³⁷² Parliament of Uganda. *Hansard*, March 31, 2005

³⁷³ Author interview with NRM MP, 2/12/08, Kampala Uganda

³⁷⁴ Author interview with Independent MP, 1/21/08, Kampala Uganda

³⁷⁵ Author interview with NRM Minister, 2/19/08, Kampala Uganda

³⁷⁶ Author interview with NRM MP, 2/29/08, Kampala Uganda

³⁷⁷ Author interview with NRM MP, 2/7/08, Kampala Uganda

sorting mechanism and a bribe because of what members were told informally when they went to collect the funds. One MP recalls the events as such:

“We were told ‘the money has come.’ But, when I went to pick it, the remarks that were being said... they said ‘don’t think this is just for facilitation for the white paper; it’s for the third term. Whoever takes this money should support the third term, should tow the line, should listen to instructions,’ and many things were said. I thought if I didn’t take it, they would think I am against the third term. But it was a bribe.”³⁷⁸

By signing for and accepting the Ushs 5 million, MPs were thus signaling to the Movement leadership that they wanted to be counted among the loyal NRM and that they wished to demonstrate this by supporting the third term as they had been told to do. In this manner, Movement elites were able to influence MPs’ action preference to favor casting an “aye” vote to abolish presidential term limits.

Overall, Movement MPs faced many pressures from both citizens and the NRM as a new party organization that lead them to believe that the best action preference was to be seen as voting to lift executive term limits during the vote on the House floor. Thus, the next step in the analysis is to explore how individual members’ outcome and action preferences interacted with their larger political environment to shape their ultimate decision on the *kisanja* issue.

Individual MP Decisions

Once a Member of Parliament has deduced both her outcome and action preferences, how does she adjudicate between them to arrive at her ultimate decision on the matter at hand? In some cases, an individual’s outcome and action preferences overlap, making it easy for the actor to make their strategic choice. So, for those MPs whose outcome preference was to see executive term limits abolished in order to keep the NRM strong and their action preference was

³⁷⁸ Author interview with NRM MP, 2/12/08, Kampala Uganda

to show both their constituents and the NRM leadership that they wanted President Museveni to have a third term in order to retain their support in the next election, there was no conflict between the two preferences and thus their final decision to vote to amend Article 105(2) was a relatively simple one. However, those MPs who had reached an outcome preference of retaining term limits in the national constitution due to a commitment to democratic principles but whose action preference called for them personally to vote to lift these same limits faced a dilemma between their two incompatible preferences. In these cases, actors will look to see what strategies are available to them that could ameliorate this tension while keeping in mind their ultimate interest in retaining their own parliamentary seat.

For parliamentarians, switching parties is perhaps the most readily available strategy for an MP who wished to have a chance to recapture her seat but who is hesitant to acquiesce to changing the constitution just to retain the favor of her party and constituents. Yet, just as the relative balance of power between parties in the party system affects MPs' perceptions of the threat of replacement (as discussed earlier in this chapter), it also affects the *ease of switching parties* for MPs. Given the non-programmatic/non-ideological character of most African party systems, switching parties is a relatively easy endeavor in the sub-Saharan context. Yet, whether one could win an election under the banner of another party is highly contingent on the relative power of the parties in the national party system. As will be demonstrated in Chapter 6, due to the declining power of the MMD party in Zambia relative to the opposition, many Zambian MMD Members of Parliament took a stand against their party leadership by declaring they would not vote to lift term limits for President Chiluba precisely because they knew that if they were decampaigned by the MMD for their disloyalty, they could switch parties and still have a good chance of re-taking their seat. However, in Uganda, MPs faced a different situation in that

the NRM's relatively high degree of power in the Ugandan party system made it very unlikely that an MP who was decampaigned by the Movement would be able to win her seat under the banner of another party.³⁷⁹

This difference between the Zambian and Ugandan cases can be illustrated by the variation in actions by senior ministers who left or were kicked out of the NRM or MMD due to their vocal opposition to amending the executive term limit provision in their countries. In Zambia, Vice President Christon Tembo and ministers Godfrey Miyanda and Edith Nawakwi immediately formed a new political party, the Forum for Democracy and Development (FDD), which many rank and file MMD MPs also joined, and which placed a respectable third in both the presidential and legislative elections despite having less than a year to organize and build a support base before the December 2001 elections. However, in Uganda, almost none of the high-ranking ministers who broke from the Movement over the third term issue formed or even joined a new political party. Seeing no prospects for challenging the NRM's dominance in Ugandan politics, Kategaya and Ssali returned to their law practice and business ventures, respectively while Miria Matembe ran as an Independent candidate in the 2006 election. As for rank and file MPs who did not have lucrative side businesses to return to, most decided to stay within the NRM fold, which meant privileging their action preference over their outcome preference and voting for the third term amendment.

³⁷⁹ As it turns out, close to 13% of the seats won in the 2006 Ugandan parliamentary elections went to independent candidates, meaning that an MP who was decampaigned by the NRM had at least some chance of winning reelection as an independent. However, this fact was not yet known during the term limit vote in 2005, and there was no previous data on incumbent election rates that MPs could consult since the previous two elections had been held under the no party system. Therefore, an NRM MP's best strategy was to remain on the NRM ticket for the 2006 elections.

Aggregate Decision- The Result

With no means of switching parties and fearing their employment prospects out of office, most Movement-affiliated MPs entered the Parliamentary chambers on July 12, 2005 resolved to vote in favor of the clause to lift the two-term limit on the office of the president. At the end of the day, 220 MPs voted for the amendment, 53 voted against it and two abstained. Among the 220 “ayes” were members of PAFO who had been active lobbyists against the third term in the past and other known “rebel” MPs, all of whom had been tamed in this instance by the strength of NRM within the Ugandan Party system. Thus, when President Museveni assented to Constitutional Amendment Bill No. 3 two months later in September, he removed the last institutional hurdle to his own life presidency.

CHAPTER 6

TERM LIMIT ADHERENCE: THE CASE OF ZAMBIA

In the previous chapter, the debate over executive term limits in Uganda demonstrated that political elites may alter political institutions if the political realities on the ground do not lead actors to favor their continued use and enforcement. In the case of institutions regulating electoral competition specifically, a power imbalance within the party system that leads to the outcomes of elections being all but foregone conclusions creates an environment in which ruling party actors seek to overturn rules that restrict the power of their now-dominant party. However, despite the lament of observers of African politics that multi-party elections in many sub-Saharan African states continue to be dominated by the party that won the first elections after liberalization,³⁸⁰ not all party systems have devolved into dominant-authoritarian systems in which the balance of power is so skewed towards the ruling party that the incentives to uphold democratic institutions fully disappear. Rather, as Sartori theorized, political systems that possess even the slightest potential for competition can cause the ruling party to feel vulnerable and lead party members to act in an anticipatory nature to constrain themselves in order to regulate competition.³⁸¹ This leads to the question of under what circumstances ruling party actors will perceive a high enough level of uncertainty in the electoral arena to uphold meaningful constraints on the power of political offices.

An exploration of the debate over executive term limits in Zambia during 2000-2001 can aid us in understanding the dynamics that lead to institutional enforcement in such cases. Despite a strong push from President Frederick Chiluba and some party elite to lift executive

³⁸⁰ Michael Bratton. 1998. "Second Elections in Africa," *Journal of Democracy* Vol. 9 (July): 51–66

³⁸¹ Giovanni Sartori. 1976. *Parties and Party Systems: A Framework of Analysis*. Cambridge: Cambridge University Press.

term limits so Chiluba could contest elections in 2001 and beyond, a number of cabinet members and rank and file MPs came out against amending the term limit clause in the constitution and were ultimately able to preserve this key constraint on executive power. The main argument presented in this chapter is that the perceptions of incumbent political actors in Zambia regarding the increasingly competitive party system, and the threat of replacement and ease of switching parties that this electoral uncertainty engendered, is what ultimately lead to the enforcement of term limits in Zambia. Despite the MMD's landslide electoral victories in both the 1991 and 1996 elections and their 85% majority in the legislature during President' Chiluba's second term, by 2001, internal MMD weaknesses and strides made by opposition parties within the historically open political environment in Zambia created a situation in which the MMD's future hold on power was growing less certain. While early on in Chiluba's second term some MMD members, including the president himself, viewed the party as secure enough in its power to advocate for lifting term limits, towards the end of the second term many within the party came to hold a different perception of the degree and direction of change in the MMD's relative strength over time and, as a result, worked to maintain executive term limits as a mechanism to regulate political competition in the future. In the end, this perception of increased competition within the party system among a majority of Zambian MPs lead to the enforcement of executive term limits in specific, and a strengthening of the rule of law in general in the Zambian case.

This chapter will open by unpacking and expanding upon the key "party system competitiveness" variable in Zambia by taking an in-depth look at electoral results, public opinion data and party strategies during the 1991-2001 period in order to evaluate changes in the balance of power in the party system leading up to the decision on term limit enforcement. Following this, the remainder of the chapter will investigate the perception and preferences of

political actors in order to understand how the strategies selected by individual party members shaped the collective judgment to retain executive term limits as a feature of the Zambian constitution.

Relative Party Strength: Assessing the MMD and the Opposition

In the statistical analysis in Chapter 4, Zambia's is classified as having a non-dominant party system in the "party system competitiveness" variable, a measure largely constructed from seat share data from the first three multi-party elections following liberalization in each sub-Saharan country. Looking more closely at the electoral returns from Zambia, it is clear that the strength of MMD was at first high and fairly static but then later declined relative to opposition parties during the ten years in between the implementation of executive term limits in 1991 and the challenge to term limits in 2001. The MMD began its life with a big victory in the first multi-party elections in 1991. National vote share results in the elections to the Zambian National Assembly compiled from Electoral Commission of Zambia data reveal that the MMD captured 74% of votes (and 83% of seats) in the first multi-party National Assembly election in 1991, UNIP won 24% of the votes (17% of seats), and the other 1% of the vote share was split between a handful of independent candidates and three smaller parties. In the next election in 1996, looking purely at the 87% seat share won by the MMD might lead the casual observer to assume MMD's strength was on the rise relative to other parties within the party system since the party increased their seat share by 4% over 1991 levels. Yet, MMD's vote share in the National Assembly elections in 1996, a measure of party strength that more closely reflects overall trends in voter preference, fell 13 percentage points to 61%. This compared with the 14% of votes won by the Zambian Democratic Congress (ZDC), a newly formed opposition party headed by former

MMD ministers, and the 25% of the votes that went to a mix of independent candidates and nine smaller parties. In addition, MMDs vote share would likely have been even lower if UNIP had not boycotted the 1996 parliamentary elections (for reasons that will be discussed below). In fact, in the subsequent 1998 local elections, UNIP won twice the number of seats that MMD won in Eastern Province, which suggests that MMDs sweep of National Assembly seats in that province two years earlier in the 1996 election was merely an aberration due to UNIP's boycott.³⁸² In all, MMD won just over 60% of the votes nationwide in the 1998 local elections, demonstrating their continued decline from their 1991 vote share levels.

Between the 1996 and the 2001 elections, the MMDs electoral strength declined and the strength of opposition parties both individually and as a whole increased to an even greater extent than between 1991 and 1996. In a closely contested National Assembly race in 2001, the MMD garnered only 28% of the vote, followed by the United Party for National Development (UPND) with 24%, the Forum for Democracy and Development (FDD) with 16% and UNIP with 11% of the vote share. The top opposition performer, UPND, had been founded by businessman Anderson Mazoka in 1998 and quickly became competitive in by-elections in many provinces from 1999-2001. As such, the party was thought by many to be a growing threat to the MMD in some of their former strongholds, most notably the Southern Province and rural areas of the Copperbelt Province.³⁸³ UPND's strong performance in the 2001 parliamentary and presidential elections (where Mazoka himself came in second to MMD's Levi Mwanawasa by less than 2% of the vote) reveals the strength UPND gained leading up to the 2001 elections. As Rakner and Svasand declare "the 2001 electoral outcome clearly indicated that the Zambian

³⁸² Burmell, Peter. 2000. "The Significance of the December 1998 Local Elections in Zambia and their Aftermath," *Commonwealth and Comparative Politics*, 38, 1: 2.

³⁸³ Momba, Jothen. 1999. "Chiluba: The Third Term Temptation" *Southern Africa Report*, Vol 15 No 1, p. 28

population wanted change as 71 percent of the electorate cast their vote for an opposition candidate/party.”³⁸⁴

Overall, as the electoral data indicators for the “party system competitiveness” variables show, Zambia can best be categorized as being in transition from a dominant party system in the 1990s to a non-dominant system by 2000-2001 when the question on term limits was being debated in Zambia. The party system is classified as non-dominant because the MMD failed to gain over 50% of the vote in three subsequent elections and because the general direction of their vote share over time shows a marked decline.

Moving beyond electoral returns, there are additional case study indicators that are not included in the “party system competitiveness” variable that further support the argument that the Zambian party system was growing increasingly competitive by the end of Chiluba’s second term. For example, public opinion data³⁸⁵ gathered from a representative sample of 1,200 Zambian citizens in May of 2002³⁸⁶ demonstrates that opposition parties were trusted much more in Zambia than in Uganda around the time of the third term debate. While the level of trust in the ruling parties were similar in Uganda and Zambia at 72% and 74% respectively, 55% of the Zambian population trusted opposition parties whereas the data analyzed in Chapter 5 showed that only 35% of Ugandans expressed any level of trust for opposition parties. Despite the fact that the MMD did enjoy a higher level of trust than opposition parties, the fact that an absolute majority of voters did articulate trust in the oppositions means that an opposition party has a real

³⁸⁴ Rakner, L and Svasand, L. 2004. From Dominant to Competitive Party System: The Zambian Experience, 1991-2001,” *Party Politics*, Vol.10, 1: 60

³⁸⁵ All data from Round 2 Afrobarometer Survey in Zambia, 2002. www.afrobarometer.org

³⁸⁶ Even though the May 2002 Afrobarometer survey was conducted after the 2001 third term debate and subsequent election being explored in this chapter, the previous Afrobarometer survey conducted in 1999 did not include questions about the level of trust or closeness respondents felt for ruling and opposition parties. Therefore, the 2002 data is used with this caveat.

chance of winning the presidency or the majority in parliament. This possibility for electoral turnover was additionally bolstered by the fact that few voters in Zambia feel loyal to the MMD party. In response to another question in the 2002 Afrobarometer survey, only 25% of respondents reported feeling close to the MMD and 7% report an affinity for UPND, while a full 61% report not feeling an affinity for any specific political party. This is in stark contrast to Uganda, where close to 50% feel close to the NRM-O and only 33% report not feeling close to any party. As the 2001 electoral results indicate, this lack of voter loyalty to any particular party resulted in a sharp decline in votes for the MMD between the 1996 and 2001 elections.

What factors on the ground in Zambia drove these electoral and public opinion outcomes that reflected (and at the same time, contributed to) the increasing competitiveness in the Zambian party system between 1991 and 2001? The actions and strategies followed by both the MMD and the various Zambian opposition groups, both historically and in the lead up to the third term debate, will be closely examined in the next section in order to understand the party system dynamics that shaped the enforcement of executive term limits in Zambia. While the insights uncovered in this analysis are not intended to form the basis of a theory that explains increasing competitiveness of party systems in every country in which executive term limits are upheld, the details will illustrate the dynamics within the Zambian party system that created an environment in which a majority of MMD members of parliament viewed enforcing term limits as the best strategy for themselves and their party.

The Movement for Multi-Party Democracy: A Party in Decline

As previously described in Chapter 3, the MMD formed in July 1990 as a multi-ethnic and multi-class coalition of labor unions, businessmen, students and lawyers who were all

advocating for democratic pluralism and the re-legalization of opposition political parties. Initially founded as the National Interim Committee for Multiparty Democracy and headed by former UNIP finance minister Arthur Wina, the MMD was registered as a formal party in January 1991 and Frederick Chiluba, long-time leader of the Zambia Congress of Trade Unions (ZCTU) and the deputy who had been in charge of organization and operations for the Interim Committee, was selected party leader and presidential candidate in an intense election at the first MMD convention in February.³⁸⁷ The MMD's decisive electoral victories in both 1991 and 1996 lead many observers of Zambian politics to classify the Zambian party system as either dominant or dominant authoritarian during Chiluba's terms in office³⁸⁸ as it appeared that MMD had succeeded in building an uncontested and formidable new party organization that could garner widespread electoral support in eight of the nine of the provinces.³⁸⁹ Yet, strong electoral numbers masked many of the factors both within and outside of the party which made it difficult for MMD become a truly consolidated party that could enjoy the sustained loyalty of a core group of voters. In reality, between 1991 and 2001, MMD's relative strength declined, first only slightly but later more precipitously, relative to emerging opposition parties. The cause of MMD's inability to sustain its electoral dominance into the new millennium stems from a combination of internal party weakness and fragmentation, ineffective policy choices, a political environment permissive of turn-overs in power and the growing capacity of the opposition to appeal to voters. Each of these factors, and the role they played in shaping the direction and change of MMD's relative strength within the party system, deserves further attention.

First, like the NRM in Uganda, which faced the challenge of converting itself from a rebel movement into a legitimate government, the MMD struggled with how to transform itself

³⁸⁷ Bratton, Michael. 1992. "Zambia Starts Over," *Journal of Democracy* Vol. 3, 2 (April): 86

³⁸⁸ Bogaards, 2004, p. 181

³⁸⁹ UNIP continued to be the party of choice in Eastern Province, its traditional stronghold.

from a pro-multiparty pressure group (comprised of many different constituencies) into both a cohesive political party and an institutionalized governing body.³⁹⁰ One main challenge in terms of internal party cohesion was the balancing of the various interests represented within the MMD coalition. Perhaps the most striking conflict within the MMD was the tension between labor unions and the business community. The unions were indispensable to the MMD as “the eighteen affiliate unions of ZCTU provided the infrastructural base [of the party]... especially in rural areas, where its branch offices and officers lent support for campaigns and membership drives.”³⁹¹ Meanwhile, the businessmen in the party largely financed the operations of the party both before and after the 1991 elections. Although these two factions complemented each other during the campaign period, once the MMD was in office and began to address the main issue facing Zambia, namely the disastrous economic situation due to decades of financial mismanagement under UNIP, tensions began to arise between them.

Owing to their differing economic interests, it would be difficult for the MMD to design an economic recovery program that would appeal to both labor and capital. Traditionally, the trade unions had been largely dependent on the statist model of economic development pursued by UNIP for years and had resisted attempts at economic restructuring by the government throughout the 1980s. Meanwhile, many in the business community favored the introduction of a neo-liberal economic agenda with free-market principles. In the end, due to pressures from both the business interests within the party and the international financial community, the MMD adopted a platform of economic liberalization through structural reforms, a greater reliance on markets and the privatization of parastatals. The labor unions initially went along with this

³⁹⁰ Rakner, Lise. 2003. *Political and Economic Liberalisation in Zambia, 1991-2001*. Uppsala, Sweden: Nordic Africa Institute. p. 66

³⁹¹ Ihonvbere, Julius O. 1995. "From Movement to Government: The Movement for Multi-Party Democracy and the Crisis of Democratic Consolidation in Zambia." *Canadian Journal of African Studies*. Volume 29,1: 15

economic reform agenda believing that Chiluba, the former head of the union movement, would protect them within the boundaries of a neo-liberal program. However, by 1994 when it became apparent that the MMD had ceased consulting with the ZCTU, the unions became more outspoken in their criticisms of the MMD and their economic policies.³⁹² As one former MMD Minister recalled, “the trade unions had expected more from Chiluba.”³⁹³ While fractures within the union movement between public and private sector unions leading to a split-up of the ZCTU itself in October of 1994 meant that the unions could not constitute a threat to the MMD in the 1996 elections in terms of shifting widespread support to one opposition party, by 2001, many unions had joined the anti-third term movement in direct opposition to Chiluba and the MMD. This clear split in the original coalition that supported the MMD weakened the party by calling into question the loyalty of the party’s base in the key union stronghold Copperbelt region and beyond.

The split in the business/labor coalition that founded the MMD was not the only cracks that occurred within the party organization following the 1991 elections. Second, as early as 1993, a pattern of defections of high ranking party officials out of the MMD into new opposition parties created an environment in which loyalty to the party came second to personal rivalries and individual ambition. Just eighteen months after the MMDs electoral victory in October of 1991, a number of prominent ministers and MMD founders including Emmanuel Kasonde (Minister of Finance), Arthur Wina (Minister of Education), Guy Scott (Ministry of Agriculture) and Humphrey Mulemba (Ministry of Mines) were sacked in an April 1993 cabinet reshuffle.³⁹⁴ While the stated reason for the dismissal of these ministers in specific was their involvement in

³⁹² Rakner, Lise. 2001. “The Pluralist Paradox: The Decline of Economic Interest Groups in Zambia”, *Development and Change*, Vol 32, 3 (June): 528.

³⁹³ Author interview with former MMD Minister, July 22, 2008, Lusaka, Zambia.

³⁹⁴ “Zambia: The Model Democracy Loses its Shine”, in *Africa Confidential*, May 14, 1993, Vol. 34, 10

corruption, the fact that both Wina and Mulemba had vied for the party presidency against Chiluba at the MMD's inaugural convention in 1991 and that both still maintained a loyal following within the party membership was widely believed to be the real reason they were targeted for dismissal. Instead of staying within the MMD party and remaining rank and file MPs from their constituencies, Kasonde, Wina and Mulemba drew on their experience launching the MMD to establish a new party, the National Party (NP) in August of 1993. They were quickly joined by other notable MMD defectors including Akashambwata Lewanika and twelve other MPs.³⁹⁵ Similarly, Scott later went on to found the National Lima Party (NLP) shortly before the 1996 elections.

This early fracturing and defection in the party leadership opened the door and set a precedent for a large scale exodus from the party by leading members in the future.³⁹⁶ In all, thirty-five opposition parties, many of them headed by MMD members who defected or had been expelled, were formed during the MMD's first term in office,³⁹⁷ thus creating a possible challenge to the MMD's future electoral strength. While, as detailed in Chapter 5, the NRM in Uganda also faced the defection of Kizza Besigye, a party notable who first founded the Reform Agenda and later the FDC, the very early fracturing of the MMD (timing) and the much larger number of parties that have been founded by defecting members (level) put Zambia into a different category in terms of the ease with which members could defect and still have a political future.

³⁹⁵ Ihonvbere, Julius. 1996. "The Crisis of Democratic Consolidation in Zambia." *Civilisations*. Vol. 43, 2: 83-109

³⁹⁶ Additional notable defections from the MMD including the defection of Roger Chongwe, Minister of Legal Affairs, to form the Liberal Progressive Front (LPF) in 1993, the stepping down of Vice President Levy Mwanawasa in 1994 to protest growing corruption within the party and the dismissal of Development Minister Dean Mung'omba and his associate Derrick Chitala, Deputy Minister for Presidential Affairs when Mung'omba pledged to challenge Chiluba for the party presidency at the convention ahead of the 1996 polls. Mung'omba and Chitala subsequently formed the Zambian Democratic Congress (ZADECO) party.

³⁹⁷ Ihonvbere, Julius. 2003. "Dismantling a Discredited One-Party Regime: Populism and Political Liberalization in Zambia" in J. Ihonvbere and J. Mbaku (eds.), *Political Liberalization and Democratization in Africa: Lessons from Country Experiences*, Westport, Connecticut: Praeger Publishers. p. 72

Besides a growing pattern of MMD ministers defecting to form their own parties, the weakness of internal party coherence and loyalty were evident in the repeated incidents of infighting between party members at all levels. For example, Von Doepp reports that through the 1990s, [c]abinet members threatened lawsuits against each other. Provincial and district officers criticized national leaders. Junior cabinet members were expelled from the party for publicly criticizing the party leaders.³⁹⁸ Incidents of bitter fighting between party officials in many of the Provinces and the MMD National Executive Committee over various issues, including provincial appointments in the Northern Province,³⁹⁹ control of local party operations in the Copperbelt,⁴⁰⁰ and complaints about an unequal distribution of national resources to the Northwest and Southern Provinces⁴⁰¹ were widely and publically reported in the media. The inability of the MMD to instill a sense of discipline within party caused Minister Michael Sata to declare to the *Times of Zambia* that the party would be destroyed if the problem was not addressed.⁴⁰²

Third, while the infighting within the MMD weakened the party internally, the number of corruption and other scandals that rocked the party throughout the 1990s weakened the voting public's view of the MMD and its capacity to govern competently. The privatization of many state-held industries called for in the economic reform process provided ample opportunities for MMD members and their allies to quietly acquire property and abuse procurement procedures for their own gain in a system where transparency of government dealings was still largely underdeveloped. A staggering number of party officials were accused of engaging in land grabbing (including Ronald Penza, Derrick Chitala, Matthew Ngulube and Roger Chongwe), import irregularities (Ephraim Chibwe, Guy Scott, and Ronald Penza), drug-trafficking

³⁹⁸ Von Doepp, 2008, p. 78

³⁹⁹ *Times of Zambia*, 25 May 1993

⁴⁰⁰ *Times of Zambia*, 15 May 1993

⁴⁰¹ See Ihonvbere, 1995 p. 9-12 for a complete view of the conflicts between the central and provincial wings of the MMD in the early years of the party.

⁴⁰² *Times of Zambia* 24 May 1993

(Nakatindi Wina, Sikota Wina and Vernon Mwaanga)⁴⁰³ and banking scandals (Sata). Even President Chiluba himself was not spared accusations of corruption- in 2000 UPND leader Anderson Mazoka charged Chiluba with theft of the profits from cobalt sales from a metals marketing company that, at the time, was a subsidiary of the government-owned Zambia Consolidated Copper Mines (ZCCM), and Edith Nawakwi, herself an former MMD Minister of Energy, accused Chiluba of being intimately involved in the disappearance of over 700 takers of petrol belonging to the parastatal Zambian National Oil Corporation (ZNOC).⁴⁰⁴ As Ihonvbere observed, all of these reports of corruption created “[t]he general impression around the country... that the ministers were so rich and comfortable that they lacked the capability or credibility to fight corruption, strengthen the party, and take care of the needs of the people.”⁴⁰⁵ Indeed, the 1999 Afrobarometer survey carried out in Zambia found that 51% of respondents believe that “almost all” or “most” officials in the MMD government were involved in corruption, leading to low levels of trust in all levels of the MMD political hierarchy with only 20% reporting trust in local governments, 23% in Parliament and 37% in the President.⁴⁰⁶

Finally, the MMDs record on governance and policy implementation, especially in terms of economic reforms, proved to be disappointing, which disillusioned many early supporters. There is no doubt that the MMD inherited a Zambian economy that had been in decline for more than 15 years due to falling copper prices (Zambia’s main export) through the 1970s-80s coupled with the UNIP’s government’s economic mismanagement of the developmentalist state.⁴⁰⁷

⁴⁰³ Nasong'o, Shadrack W. 2007. "Political Transition Without Transformation: The Dialectic of Liberalization Without Democratization in Kenya and Zambia." *African Studies Review*. Vol. 50,1 (April): 103

⁴⁰⁴ van Donge, Jan Kees. 2009. “The Plundering of Zambian Resources by Frederick Chiluba and His Friends: A Case Study of the Interaction Between National Politics and the International Drive Towards Good Governance,” *African Affairs* 108, 430: 75.

⁴⁰⁵ Ihonvbere, 1995, p. 13

⁴⁰⁶ Simutanyi, Neo R. 2002. “Challenges to Democratic Consolidation in Zambia: Public Attitudes to Democracy and the Economy.” Afrobarometer, Paper 17. Cape Town: Institute for Democracy in South Africa. p. 4

⁴⁰⁷ Rakner, 2003, p. 44

World Bank data indicates that, between 1975-1990, real per capita growth declined by 30% in Zambia as subsidies for other goods and industries could not be sustained without copper export earnings to back them.⁴⁰⁸ As a result, the main task facing the new MMD government was to reform and restructure the economy and lift Zambia out of permanent crisis.

After campaigning on a platform of monetary and fiscal reforms, liberalization of price and trade regulations and the privatization of public monopolies,⁴⁰⁹ once in office the MMD quickly moved to curb inflation by cutting federal spending, eliminating mealie meal (the main maize-based staple food in Zambia) subsidies and implementing a cash budget system. The government also deregulated the foreign exchange so that the exchange rates became fully determined by the market, relaxed restrictions on imports and exports, and lifted controls on lending and deposit rates in banks.⁴¹⁰ However, after accomplishing these early monetary and trade reforms, the MMD's commitment to carrying out further measures such as privatizing state-owned industries, public sector restructuring, agricultural liberalization and other structural adjustments waned considerably. As a result, even though inflation was brought under control, the economy as a whole continued to decline by approximately four percent per year during the 1990s, leaving the Zambian economy even smaller in 2001 than it had been in 1991 when the MMD entered office.⁴¹¹ In fact, a 2000 United Nations Development Program Report noted that Zambia is the only country in the world (with data available) that had lower human development indicators in 1997 than it had in 1975, and poverty rates grew throughout the 1990s to a high of 72.9% in 1998.⁴¹²

Clearly feeling the effects of continued economic decline on their livelihoods, opposition to the MMD's economic reforms began to emerge among a diverse range of civil society groups. One by one, organizations like the Zambian Congress of Trade Unions (ZCTU), the Zambian

⁴⁰⁸ Bates, Robert. 1981. *Markets and States in Tropical Africa: The Political Basis of Agricultural Policies*. Berkeley: University of California Press.

⁴⁰⁹ Movement for Multi-Party Democracy (Zambia). 1990. *Party Manifesto 1991-1996*. Lusaka, Zambia.

⁴¹⁰ Rakner, 2003. p. 69-70

⁴¹¹ Rakner, 2003. p. 79

⁴¹² United Nations Development Program. 2000. *Zambia Human Development Report 1999/2000: Report on Employment and Sustainable Livelihoods*. Lusaka. p. 1

National Farmers Union (ZNFU), the Catholic Church and certain business associations began to openly criticize the government over the poor management of the reform process.⁴¹³ Although not endemic, some strikes were carried out by various groups to protest the lack of jobs and the poor state of the economy including a nationwide eleven day strike by over 120,000 civil servants and public workers between February and March 1996 over lack of payment.⁴¹⁴ Afrobarometer polls from 1999 demonstrate that citizens widely viewed the MMD government as performing poorly on the economic front, with only 33% reporting that the administration was performing “very well” or “fairly well” in managing the economy and only 26% identifying the government as doing well in job creation.⁴¹⁵

A further exploration of policy implementation shows that the MMD had a similarly spotty record in terms of strides in social policy during their first ten years in power. While nearby countries such as Malawi, Uganda and Botswana implemented free universal primary education in 1994, 1996 and the mid-1980s respectively, the MMD largely ignored the education sector. Spending on public education declined throughout Chiluba’s tenure, dropping to less than 1.93% of GDP in 1999 compared to an average of 4.14% of GDP during UNIPs last decade in power in the 1980s, causing the average real spending per student to fall from \$118 in 1983 to \$50 in 1996.⁴¹⁶ Public opinion surveys in 1999 revealed that only 43% of citizens had a positive assessment of the MMD’s handling of the country’s educational needs.⁴¹⁷ Even less, 37%, approved of the MMD’s provision of basic services as many citizens disapproved of the

⁴¹³ Rakner, 2003, p. 85

⁴¹⁴ Cullen S. Hendrix and Idean Salehyan. “Social Conflict in Africa Database (SCAD).” www.scaddata.org, accessed on April 14, 2011.

⁴¹⁵ Simultanyi, 2002, p. 4

⁴¹⁶ United Nations Educational, Scientific, and Cultural Organization (UNESCO) Institute for Statistics

⁴¹⁷ Mulenga, C., A. Chikwanha and M. Msoni, 2004. “Satisfaction with Democracy and Performance of the New Deal. Government: Attitudes and Perceptions of Zambians” Afrobarometer, Paper 41. Cape Town: Institute for Democracy in South Africa. p. 16

government's move to impose user fees on previously government-provided health, water and sanitation services. Interviews with citizens regarding the MMD's healthcare policies in specific confirm this widespread dissatisfaction, finding that:

People complained that the [user] fees had been forced upon them... The fees were always mentioned when we asked people if they knew of any recent changes in the health care system. The fees preoccupied them, and nearly always negatively. Only four people expressed some support for them. All other informants denounced the new measure which they had come to see as the sobering truth behind the attractive slogans of the health reforms.⁴¹⁸

Overall, by the end of Chiluba's second term, a majority of citizens disapproved of many of the policies the MMD had implemented over the course of their time in office. When asked by the Afrobarometer survey in 1999 about their attitudes towards the MMD's reform programs, a full 72% responded that "the government's economic policies have hurt most people and benefited only a few" while a scant 18% felt that "the government's reform policies have helped most people; only a few have suffered."⁴¹⁹ These statistics signal the growing weakness of the MMD going into the 2001 elections and highlights the fact that there was a clear opportunity for opposition parties to take advantage of this high level of dissatisfaction and frustration with the MMD among voters to propose a ruling alternative. Yet, in order for opposition parties to create a credible threat to the MMD, they had to show signs of increasing in strength as MMD was in decline. Thus, the next section explores the nature of opposition parties between 1991-2001 in order to assess changes in their relative strength vis-à-vis the MMD.

⁴¹⁸ Van der Geest S, Macwan'gi M, Kamwanga J, Mulikelela D, Mazimba A and Mwangelwa M. 2000. "User Fees and Drugs: What Did the Health Reforms in Zambia Achieve?" *Health Policy and Planning*, 15, 1: 61.

⁴¹⁹ Bratton, Michael and Peter Lolojih. 2009. "Rationality, Cosmopolitanism and Adjustment Fatigue: Public Attitudes to Economic Reform in Zambia" Afrobarometer, Paper 105. Cape Town: Institute for Democracy in South Africa. p. 12-13

Opposition Parties: Potential Challengers

Zambia experienced a proliferation of new opposition parties during the 1990s so that by the time of the third-multiparty elections in 2001 more than thirty parties were registered with the Zambian Electoral Commission.⁴²⁰ As in most African countries, many of these were small, personalistic parties that disappeared between elections and, as a result, did not pose any challenge to the ruling MMD. However, eleven parties actively contested the 2001 polls, and of these, a few of the larger opposition parties had come to pose a credible challenge to the MMD, to the point that one Zambian political expert wrote in late 1999 that “MMD's retaining power in 2001 is not as assured as it was in 1991 and 1996.”⁴²¹ As Burnell (drawing on Sartori's party system classification scheme) observed, by the latter half of the 1990s, the MMD was not acting like a dominant party and was feeling vulnerable to opposition challenges as evidenced by the tactics the MMD used in their attempts to squash the opposition, including harassing opposition party members, fighting hard for every by-election, directing the police to deny rally permits to opposition forces and incentivizing opposition and former-MMD defectors to join the MMD. “None of this would be necessary in a hegemonic party system,” Burnell explains, “where there is neither formal nor *de facto* competition for power.”⁴²² What caused the MMD, which had won the previous two national elections by a landslide, to feel vulnerable to challenges by the opposition in the run up to the 2001 elections? Put more broadly, what factors contributed to the

⁴²⁰ The total number of parties that existed at some point during the 1991-2001 period is even higher than this as a number of parties that were founded early in the decade later disappeared or merged with other parties. For example, 18 parties were registered in 1993, but only 7 of these remained in force by 2001. (Rakner and Svasand, 2004, p. 65)

⁴²¹ Momba, 1999, p. 28

⁴²² Burnell, 2001, p. 242.

relative strengthening of opposition parties in Zambia and the resulting change from a dominant to a more competitive party system?⁴²³

The first factor that aided in the transition from a dominant to a competitive party system was the fact that, due to historical circumstances, Zambian voters are much more willing than their counterparts in Uganda and other sub-Saharan countries to view oppositional political parties as legitimate. As mentioned earlier in this chapter, in the survey conducted just after the 2001 elections, a majority (55%) of Zambian citizens report trusting opposition parties to some extent, which is well above the average of 23 percent of citizens who claim that opposition parties can be relied upon among all countries sampled by Afrobarometer.⁴²⁴ One reason for Zambia's more open political environment is likely Zambia's relatively peaceful political history. Since independence, Zambia has largely remained free of coups, civil wars, and other incidence of political violence that have made citizens in other countries fearful of political competition in any form. Furthermore, unlike the NRM in Uganda, MMD officials were not able to demonize the concept of plurality in the electoral arena since they themselves had embraced pluralism as the fundamental basis of their campaign against UNIP in the early 1990s. Furthermore, the very fact that the first multi-party election in Zambia did produce a peaceful turn-over in power from UNIP to the MMD demonstrated to Zambian voters that such a transition to an opposition party was safe, and potentially effective, way to achieve change within the government. Thus, the permissive attitude of citizens towards opposition parties based on the unique political history of the country created the possibility for opposition parties to pose a credible threat of replacement to the MMD in 2001.

⁴²³ Rakner and Svasand, 2004.

⁴²⁴ Bratton et al. 2004. "Afrobarometer Round 2: Compendium of Comparative Results from a 15-Country Survey" Afrobarometer, Paper 34. Cape Town: Institute for Democracy in South Africa. p. 43.

Second, the willingness of voters to elect opposition parties to power can only pose an effective threat to the incumbent party if the opposition fields candidates in a high enough number of electoral districts to make capturing a plurality of seats in the legislature feasible. The previous chapter revealed that in Uganda, the FDC was only able to run candidates in 59% of constituencies in the 2006 election, while the UPC and DP only managed to field candidates in 34% and 31% of constituencies, respectively. However, the picture in Zambia is quite different where multiple non-MMD parties have been able to run party candidates in 95% or more of the 150 wards in at least one of the first three multi-party elections (in 1991 UNIP ran 150 legislative candidates, ZDC ran 143 candidates in 1996 and in 2001 four parties besides MMD ran over 100 candidates, including UNDP (148), FDD (145), UNIP (143), Zambian Republican Party (ZRP) (137), the Heritage Party (HP) (113) and the Patriotic Front (PF) (102).⁴²⁵ While the ability to run candidates in a high number of constituencies should not be assumed to imply that each of these parties had an active grassroots organizational presence in each province (as most of the parties save for UNIP had very few party offices outside of Lusaka), the fact that they were able to find people who were not afraid to run against MMD in every corner of the country and were able to finance, to some degree, so many campaigns created the potential for governmental turn-over which introduced a level of uncertainty in the electoral arena that MMD could not ignore.

Third, the rate of success of some opposition parties in local and by-elections between the 1996 and 2001 national elections signaled the growing strength of such parties vis-à-vis the MMD. Local election results from 1998 revealed that opposition and independent candidates were able to secure 40% of the total vote in an election where only 27% of registered voters

⁴²⁵ Rakner and Svasand, 2004, p. 54.

turned up at the polls. Official returns show that UNIP was still largely supported in Eastern Province, its historic stronghold, but had also gained the momentum to win some wards in Northern, Central and Luapula Province (the home province of President Chiluba).⁴²⁶ However, the main surprise of the 1998 local elections was the success of the UPND. Registered just one week before the December 30th polls, the UPND won 28 wards despite its lack of time to officially campaign.⁴²⁷ Following this round of local elections, by-elections for National Assembly seats in August of 1999 saw both UPND and UNIP winning three seats each and MMD winning five. Further by-elections in Mbabala,⁴²⁸ Sesheke,⁴²⁹ Mwadi⁴³⁰ and other wards demonstrated that the UPND was quickly gaining significant support throughout the country, including in Northwestern, rural zones in the Copperbelt, some parts of Central and, most notably, the Southern Province. As Momba declared in 1999, “UPND is quickly establishing itself as a serious contender, and is encroaching on some of the areas that were traditionally MMD strongholds.”⁴³¹ The combined results of these local and by-election returns demonstrated to all that Luapula and Copperbelt provinces were the only provinces where the MMD could be sure of doing well in the 2001 elections.⁴³² Even in by-elections where the MMD was victorious, the fact that the combined opposition vote was sometimes higher than the MMD vote (for example, the Kalingalinga by-election where the MMD secured 522 votes against the combined

⁴²⁶ Burnell, 2000, p. 2

⁴²⁷ Europa Publications. 2003. “Zambia” in *Africa South of the Sahara*, 32nd Edition. London: Europa Publications.

⁴²⁸ “Mbabala poll: MMD concedes defeat” *The Post of Zambia*, 19 February 2000.

⁴²⁹ Phiri, Brighton, Webster Malido and Bivan Saluseki. 2000. “MMD Challenges Opposition to Accept Election Results” *The Post of Zambia*, 28 July.

⁴³⁰ Phiri, Brighton and Mackson Wasamunu. 2000. “UPND Pronounces MMD Dead After Mwandi Election Defeat.” *The Post of Zambia*, 16 November.

⁴³¹ Momba, 1999, p. 28

⁴³² Momba, 1999, p. 28

opposition tally of 660 votes)⁴³³ contributed to a third way the opposition posed a growing threat to the MMD- the possibility of forming election coalitions.

Despite the electoral gains made by the UPND and UNIP in by-elections in the lead up to the 2001 election, it seemed likely that an opposition that was fragmented between a handful of parties would not be able to unseat the MMD as votes for the opposition would be divided, thus giving the MMD a plurality.⁴³⁴ However, the talk of a possible electoral alliance between a number of opposition parties for the 2001 election created a way by which the opposition could circumvent an MMD “divide and conquer” strategy. Electoral coalitions were not a new concept in Zambia by 2001. The Zambian opposition has in the past demonstrated a willingness to work together in a coalition in order to become a more plausible government alternative. In 1994, UNIP and six other opposition parties joined forces under the Zambian Opposition Front (ZOFRO)⁴³⁵ alliance and in 1996 the opposition also coalesced around the call for a constituent assembly to draft a new constitution. Following this tradition, Guy Scott, leader of the National Lima Party called the opposition’s performance in the 1998 local elections “a major catalyst” for an opposition alliance.⁴³⁶ His call resulted in the formation of the Zambia Alliance for Progress (ZAP) in May of 1999 as a partnership between the National Lima Party (NLP), Zambia Democratic Congress (ZDC), Agenda for Zambia (AZ), Labour Party, the National Christian Coalition (NCC) and a non-governmental organization called the National Pressure Group. At the time, MMD chairman Vernon Mwaanga dismissed the formation of ZAP as “meaningless”

⁴³³ Burnell, 2000, p. 8

⁴³⁴ Zambian electoral rules stipulate that the candidates with a simple plurality of votes wins the election in the first round. Therefore, there is no second round to the election when opposition parties could coalesce behind on opposition candidate.

⁴³⁵ Europa Publications. 2003. “Zambia” in *Africa South of the Sahara*, 32nd Edition. London: Europa Publications, p. 1144

⁴³⁶ Burnell, 2000. p. 11

since the six parties in the alliance had only won 3.7% of the total vote in the recent local elections.⁴³⁷ However, talk of other mergers, such as between long-time MMD financier Ben Mwila's new Republican Party, which drew an impressive 10,000 people to its launch rally in Copperbelt town of Luanshya in August 2000, and the UPND and/or UNIP⁴³⁸ was a more menacing threat to MMD's dominance. Thus, the willingness of largely non-programmatic opposition parties in Zambia to form coalitions (or, at the very least, the potential for this to occur), is the fourth way in which the opposition in Zambia gained strength relative to the MMD in the lead up to the 2001 polls.

The discussion in the previous paragraphs on the ways in which the opposition was able to pose a growing threat to the MMD prior to the 2001 elections should not obscure the fact that there were real weaknesses in the Zambia opposition as well. UNIP suffered from public squabbles over leadership succession, the back and forth of the multiple "retirements" and reintroduction into politics of Kenneth Kaunda, their boycotting of the 1996 elections and a damaged reputation from 27 years of economic mis-management during the one-party era. Meanwhile, the newer parties such as the UPND, ZDC and ZRP struggled to construct local bases of support, gain name recognition and obtain financial backing. All opposition parties were also constrained by the MMDs concerted efforts to quash challenges to its authority, such as the party's use of the local laws and police to deny permits to opposition groups for gatherings and rallies, the MMDs willingness to re-write electoral laws to exclude certain opposition candidates,⁴³⁹ the arresting of opposition party leaders on trumped up criminal charges and the

⁴³⁷ Dickson Jere. 1999. "Mwaanga Dismisses ZAP" *The Post of Zambia*, 5 May.

⁴³⁸ Burnell, 2001, p. 245

⁴³⁹ such as the amendment passed shortly before the 1996 election barring candidates whose parents were not Zambian from running, which was widely seen as a tactic to keep Kaunda (whose parents were Malawian by birth) from standing for president.

party's abuse of some state-owned media outlets to restrict opposition's access to citizens over print, radio or television. Yet, while the absolute strength of the many opposition groups might appear low in a one-sided analysis, when compared with the decline in the MMDs strength over time, we see that the relative strength of the opposition increased between 1991-2001 to the point where most MMD members perceived that the opposition posed at least a modicum of a credible threat of replacement by the time the debates over Chiluba's third term began in earnest in 2000. Writing in the middle of the contentious third term debate, Burnell confirms that "the ruling party has interpreted the very existence of political competition as a real potential for opposition competitiveness. The opposition's weaknesses have not prevented the ruling party from feeling vulnerable..."⁴⁴⁰ The next section will draw on interview data to ascertain how ruling party MPs actually viewed the level of competitiveness in the party system by 2001 and to reveal the preferences, strategies and actions of the individual MMD actors who were tasked with deciding whether or not to retain the two term limit in the Zambian constitution. However, before discussing the actors' decision processes, a brief summary of the term limit debate as it unfolded in Zambia is warranted.

The Executive Term Limit Debate in Zambia

The opening statement on what came to be widely known as the "third term" debate in Zambia was delivered nearly two and a half years prior to the 2001 election when, in mid-May 1999, Lusaka district MMD youth secretary David Chanda and MMD's Lusaka District Chairperson, Reuben Sunkutu both reacted to speculation that UNIP would run Kenneth Kaunda in the 2001 poll by asserting that such a move would prompt MMD to adopt Chiluba as its

⁴⁴⁰ Burnell, 2001, p. 242

candidate for the third time.⁴⁴¹ However, even after Kaunda announced his retirement from politics in March 2000, rumors that the President was not ready to relinquish office continued to circulate around Lusaka following Chiluba's public announcement in May forbidding anyone within the MMD to launch their own campaign for president. The movement to eliminate executive term limits from the Zambian constitution became official in January and February of 2001 when the question of changing the MMD party constitution, which also imposes a two term limit on the party president, was put before the provincial executive committees at the nine MMD province conferences. While seven conferences endorsed the proposal to amend the party constitution in this way, delegates in two provinces- the Southern Province and Lusaka Province- rejected the measure. These provincial conventions were marred by the bribing of officials to support the petition on term limits,⁴⁴² the suspension of several MPs and district officials from the party,⁴⁴³ physical assaults on third term opponents such as ministers Desai and Malambo by Chiluba loyalists at the Southern conference and the subsequent firing of cabinet members Sejani and Hatembo for "not respecting authority" after leading the charge against the third term in Choma.⁴⁴⁴ President Chiluba himself maintained a stoic silence throughout this period regarding his preferences for a third term, remarking only that debate is part of plural politics and healthy in a democracy when questions on his intentions.

The inner-MMD wrangling over the issue was soon accompanied by strong reactions from civil society actors. On February 21, 2001 a newly-formed coalition of civil society groups, which included the Law Association of Zambia (LAZ), Episcopal Conference (ZEC), Christian Council of Zambia (CCZ), Evangelical Fellowship of Zambia (EFZ) and the Non-

⁴⁴¹ *Times of Zambia*. 1999. "We'll force FJT to stand for third term if UNIP fields Kaunda" 19 May.

⁴⁴² Author interview with former MMD minister from the Southern Province, July 28, 2009, Lusaka, Zambia.

⁴⁴³ Malido, Webster And Amos Malupenga. 2001. "Northern Province MMD Suspends 8 MPs, 4 District Officials" *The Post (Zambia)*, 20 April.

⁴⁴⁴ Africa Confidential. "Third Time Unlucky" Vol 42, 6, March 23, 2001.

Governmental Coordinating Council (NGOCC), organized an event at Lusaka's Oasis Restaurant that brought together nearly 1,000 citizens opposed to the third term agenda. The gathering, which many felt was reminiscent of the rallies against the UNIP government in the early 1990s, sparked actions such as the green ribbon-wearing and car horn-honking campaigns, public protests, and seminars around the country. When the MMD responded by pulling green ribbons from store shelves and denying the Oasis Forum, as the organization came to be called, permits for rallies, the group responded by importing ribbons from South Africa or the United Kingdom and continuing to hold scheduled marches in defiance of police orders.⁴⁴⁵

Few MMD members participated in the first Oasis meeting or early events, but by late April/early May eighty members of parliament had signed a letter tabled at an Oasis-organized prayer meeting at the Holy Cross Cathedral declaring their opposition to altering the national constitution and many party leaders, including Vice President Christon Tembo, had begun to publically speak out against the third term at public rallies organized by the Oasis Forum and in the media. As a result, Tembo and eight other cabinet ministers who had signed the petition were expelled from the MMD in early May, and many of them promptly formed their own political party, the Forum for Democracy and Development (FDD). The day after their expulsion, 65 out of the 158 MPs filed a motion of impeachment against the President for seven offences of gross violation of the constitution for using bribes during the third term campaign and engaging in "thuggery, gangsterism, and anarchy". These actions came only two weeks after the MMD national convention held in late April voted to amend the party constitution to allow unlimited terms for the party president as opponents to the measure were barred from entering the meeting. However, despite this victory, President Chiluba announced unequivocally on May

⁴⁴⁵ Author interview with former LAZ chairman, July 15, 2008, Lusaka, Zambia.

5, 2001 that he would not seek additional terms in office and would stand down at the completion of his current term.

Why did Chiluba choose to pursue the removal of term limits from the Zambian constitution? What lead a majority of ministers and MPs to oppose the move, first cautiously but later actively? The remainder of the chapter will explore, in their own words, the perceptions and preferences that lead the various MMD actors to pursue the strategies that they did during the contentious term limit debate in Zambia.

Perceptions of Party System Competitiveness

The discussion of party system competitiveness earlier in this chapter sought to use data from electoral returns and public opinion polls as well as descriptions of party histories in order to explain the cause of the relative increase in opposition strength vis-à-vis the MMD by 2001. However, the question remains as to how the various actors in Zambia *themselves* perceived the MMD's position relative to the opposition at the time they when they were compelled to make their decisions on the term limit issue. Did they feel that other parties posed a threat of replacement to their party, or did they feel that their party's hold on power was firm? Why did President Chiluba, who appeared to think his party was strong as evidenced by the fact the he favored the lifting of term limits, have a different perception of the MMD's strength from the MPs and cabinet ministers who opposed amending the constitution?

The difference in the timing between when the President had to make his decision to pursue a constitutional amendment lifting term limit and when the MPs/Cabinet Ministers had to make their own decision on the matter largely explains the discrepancy between Chiluba's decision to attempt to lift term limits and the parliamentarian's collective decision to oppose the amending of the constitution. Although it is hard to ascertain exactly when the President

personally decided to initiate the campaign to abolish the restrictions on executive tenure, available evidence⁴⁴⁶ suggest that by late 1999, certain party insiders had been tapped by Chiluba to begin laying the groundwork for the move.⁴⁴⁷ In late 1990s, there were many factors which likely lead Chiluba to believe that both he and the MMD were in a strong position to ahead of the 2001 elections. During this period, Chiluba had mediated a peace deal in the Democratic Republic of Congo and hosted South Africa's Thabo Mbeki's first foreign state visit, Wezi Kaunda, Kenneth's son and rumored UNIP candidate in 2001, had been assassinated and government completed the privatization of the Zambia Consolidated Copper mine (ZCCM) with the final transfer of ZCCM's assets to the Anglo-American Corporation in March of 2000. The September 2000 by-elections seemed to confirm an MMD renaissance as the party won all eight open seats across four provinces, and opinion polls conducted in November and December 1999 found that 64 percent of Zambians approved of the way President Chiluba has performed his job in the previous year.⁴⁴⁸ Furthermore, in December 1999 Chiluba had put in place 72 District Administrators (DAs). Billed as civil servants tasked with improving service delivery at the local level, it quickly became apparent that Chiluba's appointees to the post were party cadres who could do the President's bidding at Provincial party conventions.⁴⁴⁹ Finally, Chiluba had just watched the neighboring Namibian Parliament easily amend the constitution to give President Sam Nujoma the ability to run for a third term the previous year in 1998 with a smaller SWAPO majority than he had in the MMD-dominated parliament. Seeing little negative international reaction to Namibia's constitutional amendment, one former MMD minister

⁴⁴⁶ Africa Confidential. "Chiluba and After" December 19, 1999.

⁴⁴⁷ Author interview with former MMD Minister, August 6, 2008, Lusaka, Zambia.

⁴⁴⁸ Simultanyi, 2002, p. 4

⁴⁴⁹ Author interview with former MMD Minister, August 6, 2008, Lusaka, Zambia; Author interview with former MMD minister, July 22, 2008.

maintains that, for Chiluba, international opinion regarding Zambia lifting term limits “would not have counted for much. I don’t think he was worried about it [the reaction from abroad].”

As the former Minister for Presidential Affairs revealed, all of these developments combined created an environment in which Chiluba

“must have thought ‘I’ve been working so hard and the economy is looking around and I should take the glory, for one thing, maybe a third term.’ And there where those in the party who [said] things are looking good, things have changed. People are appreciating the strides in the economy and governance structures. So there was a case for him.”⁴⁵⁰

Feeling that he and the MMD were much stronger than any opposition party, Chiluba gave his blessing for the term limit issue to be placed on the agenda at the MMD Provincial conferences in January and February 2001 in the first official step in the process of eliminating tenure restrictions on the executive office. It was a decision made unilaterally by Chiluba who, at this time, was only consulting about the third term with a small sub-committee of the MMD lead by Paul Tembo, not within the Cabinet or the party’s National Executive Committee.⁴⁵¹ As one former MMD divulged, “he realized the amount of power his office held and he felt that he was very popular. And in fairness to him, he was popular, especially as it [the term limit debate] began.”⁴⁵²

Even though President Chiluba did not sense a threat of replacement from any of the opposition parties in the country, just as the term limit question was being adjudicated in the Provincial Conferences and MPs and Ministers were being asked to pronounce their views on the matter, the political environment shifted in a number of ways from the time when Chiluba made his decision to push for an amendment. These developments persuaded many Ministers and MPs

⁴⁵⁰ Author interview with former MMD Minister, August 6, 2008, Lusaka, Zambia. This Minister (and others) also maintain that Chiluba faced pressure to stand for a third term from his then-girlfriend Regina Mwanza (who he later married after leaving office) who wanted a chance to be First Lady.

⁴⁵¹ Author interview with former MMD minister, August 6, 2008. Lusaka, Zambia.

⁴⁵² Author interview with former MMD MP, July 25, 2008, Lusaka, Zambia

that the MMD was losing strength and did face a real threat of replacement by opposition forces. First, in February of 2001, early reports of corrupt cobalt sales to the Bahamian Metals Resource Group broke in both the international and Zambian media revealing that Zambia had lost more than \$150 million in the deal.⁴⁵³ Even though the MMD had faced other corruptions scandals before (i.e. individual ministers charged with drug-dealing or gun-running) the allegations of corruption on this scale, with some sources indicated that the President himself could be involved,⁴⁵⁴ was a major blow to the party and made the MMD more vulnerable than ever before. In addition to the cobalt scandal, one Zambian newspaper editor disclosed that as the third term debate began to unfold,

[t]here were a lot of leakages from civil servants just to expose what the ministers were doing, the government, Chiluba... so we had so many scandals exposed during that period with proper documentary evidence. The civil servants were themselves very upset. They were just releasing information that they thought would help demolish Chiluba's intentions. Things were quite bad and there was no hope for the future. The only hope they had was for a change of leadership. So they had to do everything to ensure that the third term bid was frustrated.⁴⁵⁵

As a result of these growing revelations of corruption within the MMD, many parliamentarians began to sense that "people didn't want MMD because of what Chiluba had done.... People didn't like Chiluba's economic policies and his corrupt practices"⁴⁵⁶

In addition to the mounting corruption scandals, the MMDs loss of strength was made apparent to the MPs and Ministers by the strong reaction to the third term issue by numerous facets of civil society. In Uganda, there had been a few small demonstrations against the NRM's plan to lift executive term limits in Kampala, but this movement never amounted to much due to the NRM's widespread support among the population. In contrast, the vocal and sustained anti-

⁴⁵³ Cowell, Alan. 2001. "Draft Audit Faults Zambia's Mining Deals", *The New York Times*, February 16.

⁴⁵⁴ United Nations Office for the Coordination of Humanitarian Affairs. 2001. "ZAMBIA: IRIN Focus on run up to elections" IRIN news service. February 28: <http://www.irinnews.org/Report.aspx?ReportID=18874>

⁴⁵⁵ Author interview with Post Newspaper Editor, August 1, 2008 Lusaka, Zambia.

⁴⁵⁶ Author interview with PF member of Parliament, July 24, 2008, Lusaka Zambia.

third term movement orchestrated by the Oasis Forum around Zambia signaled to parliamentarians that the MMDs popularity might not be strong enough to withstand the growing grassroots movement. One former MMD minister remembers thinking that “the rallies by the UNDP and civil society groups in opposition to the third term were becoming unbearable.”⁴⁵⁷

Finally, the mounting public rallies in opposition to the third term not only signaled the voters’ disapproval of the move, but also created an opportunity for opposition parties to gain popular support. Indeed, in the words of one respondent, the popular movement against the term limit amendment served to benefit and strengthen opposition parties as “the power of civil society became a real force to get opposition parties together to face Chiluba’s ambition”⁴⁵⁸ Another former Minister recalled thinking at the time that “the UPND was much stronger”⁴⁵⁹ at that point than at any other point in the party’s history. As a result of these developments, it became clear to most MMD members that their party’s hold on power was anything but assured in the 2001 election and beyond. The opposition had grown robust enough to pose a credible *threat of replacement* to the MMD in the 2001 elections. How did MMD MPs and Ministers translate this perceived threat of replacement into their action and outcome preferences regarding their choice on the question of lifting executive term limits? The next section of this chapter will explore this question in detail.

Preferences of Ministers and Members of Parliament

How did knowing that their party was losing strength relative to other parties in Zambia impact MMD members’ preferred outcome to the term limit debate? As individual actors, each

⁴⁵⁷ Author interview with former MMD Minister, August 1, 2008, Lusaka, Zambia.

⁴⁵⁸ Author interview with civil society leader, August 3, 2008, Lusaka Zambia.

⁴⁵⁹ Author interview with former MMD Minister, August 1, 2008, Lusaka, Zambia.

MP and Minister had their personal outcome and action preferences when it came to the term limit amendment decision. While the ultimate goal of each member was for the MMD to control the government after the 2001 elections and beyond, they had different ideas about whether an outcome preference of lifting or maintaining term limits as was the best strategy for achieving this goal. In addition to each member's outcome preference, each also had action preferences for retaining favor with both their constituents and the MMD leadership for their own future electoral viability. The following section explores how MPs and Ministers were thinking about both their outcome and action preferences during the debate over executive term limits in Zambia.

Outcome Preferences

Many cabinet Ministers within the MMD reported wanting to maintain the two-term limit on the executive enshrined in the Zambian constitution due to their own political ambitions. Despite President Chiluba's May 2000 proclamation restricting MMD members from openly campaigning for the presidency, a number of Cabinet ministers coveted the post and were positioning themselves to be the MMD candidate in the 2001 polls. As one then-minister disclosed "There were plenty of people who made it very clear that they wanted to succeed him [Chiluba], including myself!"⁴⁶⁰ The very fact that there were no less than four presidential candidates who had all been MMD ministers 15 months prior to the election but who were running in 2001 as opposition candidates demonstrates that a number of Ministers wished to uphold term limits and see Chiluba step down after two terms so that they could compete for the presidency themselves. This group includes Christon Tembo (former National Vice President

⁴⁶⁰ Author Interview with former MMD Minister, August 7, 2008, Lusaka, Zambia.

running under FDD), Godfrey Miyanda (former MMD Vice President, running under HP), Michael Sata (former Minister without Portfolio, running under PF) and Ben Mwila (former Defense Minister, running under ZRP). Except for Mwila, who was expelled from the party prior to the Provincial conferences where the proposal to lift term limits was first officially tabled, the other three, plus a number of other ministers who were widely thought to have presidential ambitions but did not end up standing in the election (including Vincent Malambo, Enoch Kavindele, Eric Silwamba) either left the MMD in the middle of the term limit debate or remained within MMD through the selection of Mwanawasa as party flag bearer in August of 2001. Yet, whether they publically fought against amending Article 35(2)⁴⁶¹ or claimed in interviews to have advocated against the third term from within the party,⁴⁶² it is clear that a fair number of ministers, each with their own following within the party, preferred to keep executive term limits in place in order to pave the way for their own candidacy.

Among lower-level ministers and MP who were not in a position to contest for the presidency, divergent outcome preferences emerged during interviews. First and foremost, just like their Ugandan counterparts, a number of interviewees expressed wanting to keep executive term limits in the constitution based on a sentiment that the national constitution should be a sacrosanct document that should not be amended at whim or for the advantage of just one person.⁴⁶³ They saw an inherent danger in setting a precedent whereby the constitution was seen as a malleable tool to be used to advantage whatever party was in power at the time. The perceived threat of replacement posed by the relative strengthening of the opposition parties during this time made such a precedent an especially dangerous one because MMD members did not want an opposition president to gain a permanent incumbent advantage and additional

⁴⁶¹ *Ibid.*

⁴⁶² Author interviews with former MMD ministers, August 1 and August 6, 2008, Lusaka, Zambia.

⁴⁶³ Author interviews with former MMD minister, August 7, 2008, Lusaka, Zambia.

leverage to further amend the constitution to consolidate power should the MMD lift term limits and then lose the next election. One MMD MP worried that “once you break the principle, it will be very difficult to defend it later... and subsequent presidents could equally manipulate the constitution to their benefit.”⁴⁶⁴

Second, many MMD members also worried what changing the constitution just so Chiluba could run again would go against the very philosophy that the MMD was built upon. One MMD member of parliament at the time (who was also among the founding members of the party in the early 1990s) recalls favoring the upholding of term limits because changing the constitution to allow for unlimited executive tenure would run counter to the founding principles of the party itself. He explained that, at the founding of the MMD

“we had stood on a platform of forming a government *of laws* and not men. Now, if the very first act, or one of the very major acts that such a government would do, that stood on such a platform would be to say ‘we’re not going to recognize what has been said in the constitution, instead we’re going to change the constitution,’ in my opinion, was to set a very dangerous and serious precedent which would be very difficult to rectify... So, I have absolutely no regrets for fighting against the third term. In my opinion, to have succeeded would have mean the whole spirit of the MMD would have been void.”⁴⁶⁵

More specifically than going against the spirit of the MMD, others felt that for the party to advocate lifting term limits so Chiluba could run again would be to directly contradict an argument the MMD had made in 1996 to block criticisms it endured the last time the party tampered with the constitution. Shortly before the 1996 elections, the MMD-dominated parliament had pushed through an amendment to the constitution that required presidential candidates to have parents who were born in Zambia, a rule that effectively barred Kenneth

⁴⁶⁴ Author interview with MMD MP, July 25, 2008. Lusaka, Zambia.

⁴⁶⁵ Author interview with former MMP MP, July 25, 2008, Lusaka, Zambia.

Kaunda from running as his parents had been born in present-day Malawi. As a result, one former cabinet minister remembers arguing in 2001 that

“because in 1996 when the argument came that we were just doing that to bar Kaunda, our response to that was that we can’t make constitutions to suit an individual. Now, to amend the constitution to extend Chiluba’s term for another term of office would amount to changing the constitution to suit the will of an individual, running counter to our argument in 1996. I was not about to do that. That was the fundamental basis of my objection to the third term bid.”⁴⁶⁶

Interestingly, as all of these positions show, a number of parliamentarians were cognizant of and concerned about how altering the constitution would affect the MMD *as a party* and its future competitiveness in elections. If the electoral playing field remained equal and the MMD retained its reputation, MMD MPs felt they would personally have a better chance of winning subsequent elections. Their concern for the endurance of constitutional principles in the abstract seemed secondary to these concerns to most respondents.

While this concern for the reputation and strength of the party in the future lead some parliamentarians to espouse and outcome preference of retaining term limits, other MPs and Ministers sided with the President in preferring term limits to be lifted due to other concerns about the strength of the party, namely the party’s cohesion. As detailed earlier in the chapter, the MMD began as a loose coalition of individuals and groups with very disparate interests. The numerous early defections from the party signaled to all within the MMD that the party’s cohesion was in perpetual danger. As such, some MPs and Ministers felt that the best way to hold the party together was to keep Chiluba on as president because they thought an open succession debate would rip the party apart. In addition to wanting to ensure the party hung together, other parliamentarians were nervous about what shape the party would take in a post-

⁴⁶⁶ Author interview with former MMD Minister, July 22, 2008, Lusaka, Zambia.

Chiluba era and wanted to keep the status quo in place in order to safeguard their own position within the party hierarchy. One former Minister recollected that

There were people around him [Chiluba] who thought that there was no suitable successor- that's how people always start these things... People become comfortable in the particular style of leadership and they are always uncomfortable with change. You never know what change brings. So, I think people were afraid of change and what it would mean for them.⁴⁶⁷

Sentiments like this, expressing fear over the fate of one's position within the party in specific and the future shape of the party structure in general in the wake of a presidential turn-over were also prominent among Uganda MPs and Ministers. This is understandable in new democracies that are facing their first transition of power from one leader to another in the multi-party era. Both a relative lack of experience with executive transitions (as in Zambia, where there had only been one leadership transition in 40 years of independence) or a history of violent transitions (as in Uganda) create a natural apprehension among ruling party members about uncertainty change may bring. One respondent mentioned that it was an especially pressing concern among some MPs and Ministers in Zambia, especially those from Chiluba's Luapula Province who wanted to keep the presidency within the region.⁴⁶⁸

Based on all of this information, it is clear that Zambian Ministers and MP were split in their preferred term limit outcome. Some wished to keep term limits enshrined in the constitution based on concerns about retaining an equal playing field in future elections and protecting the MMDs reputation as a party that abided by the law in the face of the threat of replacement posed by the strengthening opposition. However, others preferred to abolish term limits from the constitution in order to keep the status quo, thereby protecting the party and

⁴⁶⁷ Author interview with former MMD Minister, August 7, 2008, Lusaka Zambia.

⁴⁶⁸ Author interview with former MMD Minister, August, 6, 2008, Lusaka Zambia.

themselves from the uncertainties of a transition. Yet, these outcome preferences alone did not dictate how parliamentarians ultimately decided to proclaim themselves on the term limit question. As in Uganda, MPs and Ministers' action preference also influenced their ultimate decision on what side to support in the term limit debate. It is to an analysis of the action preferences of Zambian respondents that the chapter now turns.

Action Preferences

The action preferences of Zambia parliamentarians regarding the term limit question are rooted in their concern for how their constituents and the MMD leadership will view their choice on the matter. As elected representatives who rely on constituents for votes and the party for their campaign funding, a parliamentarian has many reference groups whose interests she must consider whenever she makes a political decision regardless of her personal view on the issue at hand. What action preferences did Zambian MPs and Ministers form in light of the consequences they faced from their various reference groups?

Constituent Support

Elections for legislative seats occur concomitantly with presidential elections in Zambia, meaning that Zambian MPs and Ministers were cognizant that their decision on the term limit issue would be in the forefront of voters' minds when they went to the polls in late 2001. In the early stages of the third term debate, it was unclear to MMD members what ordinary Zambians thought about the idea of lifting term limits. Some respondents thought that public sentiment would support the upholding of term limits because the Zambian citizens had advocated for such limits in presidential power since 1972 when the Chona constitutional review commission found that a

majority of citizens wanted to see term limits added to the constitution.⁴⁶⁹ Even though the UNIP government at the time rejected the proposal in 1972, undaunted, citizens overwhelmingly supported the implementation of term limits in the 1991 constitution when polled by the Mvunga Constitutional Commission⁴⁷⁰ and also advocated the maintenance of executive term limits during the touring of the country by the Mwanakatwe Constitutional Review Commission in 1995.⁴⁷¹ Knowing that that citizens had long supported the institution of executive term limits, one former Minister claimed that “for people like me, to be requested to go back to the people again and tell them that we were revising the constitution, which only five years earlier we were changing, I think was totally unacceptable.”⁴⁷²

However, even though citizens seemed to support executive term limits as a concept, other parliamentarians recall wondering if Chiluba was personally strong enough to draw citizen and interest group support for a third term. Just as the President himself estimated that his personal popularity was high two years before the 2001 election, prompting him to go for the term extension, a former MMD MP recalls believing that the president was quite popular with the public when talk of the third term first began to surface.⁴⁷³ However, as the term limit debate progressed, the strong negative response from civil society through the Oasis Forum- the public meetings around the country, the green ribbon and car honking campaigns, the anti-third term t-shirts, bumper stickers and leaflets (which were translated into seven regional languages) that appeared all over Lusaka⁴⁷⁴ - erased any perceptions among MMD members that the public supported the abolition of term limits for President Chiluba. As one leader of the Oasis Forum movement said,

⁴⁶⁹ Author interview with former MMD Minister, August 6, 2008, Lusaka Zambia, and Author interview with civil society leader, August 3, 2008, Lusaka Zambia.

⁴⁷⁰ Author interview with head of 1991 Constitutional Review Commission, August 11, 2008, Lusaka Zambia

⁴⁷¹ Author interview with head of 1995 Constitutional Review Commission, July 11, 2008, Lusaka Zambia

⁴⁷² Author interview with former MMD Minister, July 22, 2008, Lusaka, Zambia

⁴⁷³ Author interview with former MMD MP, July 25, 2008, Lusaka Zambia

⁴⁷⁴ Author interview with NGOCC Information Officer, July 23, 2008, Lusaka, Zambia.

“the movement outside helped to remind [MMD members] that, hey, you have set up the standard, you have brought democracy! You cannot go against what you have promised.”⁴⁷⁵ As a result, most parliamentarians, especially those in Lusaka, Eastern and Southern provinces came to view retaining term limits as in their best interest if they wanted to curry the favor of their constituents.

Standing with the MMD Leadership

Constituents are not the only reference group each Zambian MP and Minister had to consider when forming their action preference with regards to the term limit issue. Just as in Uganda, most politicians seek to retain favor with their party leadership because they are reliant on the party for campaign endorsement and funding as well as appointments after the election. Zambian electoral rules dictate that each party is free to choose candidates for parliamentary seats through any method they adopt. In the MMD, candidates are selected after going through a series of interviews with party officers at both the local and national level before meeting final approval with the central MMD organization.⁴⁷⁶ As one MMD official summarized, “the adoption process is done by the party, so if you are perceived not to be a loyal MP, at the next election they won’t adopt you.”⁴⁷⁷ This process of candidate selection and the desire of candidates, once selected, to secure the highest possible amount of campaign funds from the party, leads to a situation in which sitting parliamentarians always want to be seen as towing the party line. As one MMD MP remarked that “one of the major challenges we [MP candidates] have is resources. What you earn from Parliament is a pittance... and most of the people do not have the kind of accumulated wealth” to fund their own campaigns.⁴⁷⁸ This same MP also remarked that the MMD had access to

⁴⁷⁵ Author interview with civil society leader, July 24, 2008, Lusaka Zambia.

⁴⁷⁶ Von Doepp, 2005, p. 75

⁴⁷⁷ Author interview with former MMD Minister, August 6, 2008, Lusaka Zambia.

⁴⁷⁸ Author interview with former MMD member of parliament, July 25, 2008, Lusaka Zambia.

greater sums of campaign dollars for the candidates than other parties because, as ruling party, it could tap into state resources and also enjoyed the support of Zambian businesses who donated to the MMD in order to secure lucrative government contracts. As a result, all else being equal, MMD parliamentarians would prefer to run in the next election under the MMD banner.

It is of the utmost importance to Zambian parliamentarians to retain their seats in the legislature because being in government not only provides a livelihood while serving as an MP,⁴⁷⁹ but losing a seat can make life difficult for former MPs and Ministers even when they are no longer in government. Many respondents claimed that politicians who are expelled from or decampaigned by the party face an uphill battle in finding employment in the private sector because their images are tarnished and possible employers may think “if you are fired, you must have done something sinister or you must have been a thief. They don’t believe you can be fired over a difference in matter of policy.”⁴⁸⁰ Even those MPs who own their own businesses or are otherwise self-employed are scared of losing office because once out of government “your businesses will suffer, your contracts will suffer, they will of course audit you... these things do happen and there’s evidence. You’ll be squeezed. So, better toe the line to make sure there is food on the table.”⁴⁸¹ Thus, Zambian MPs and Ministers had to seriously consider the consequences opposing Chiluba’s third term bid could have on their future livelihood when deciding how to stand on the issue.

The committee Chiluba had set up within MMD to push for the third term played on these fears in an attempt to build support among parliamentarians for the term limit amendment. Shortly after the MMD Southern Province conference delegates rejected the proposal to abolish term limits from the MMD party constitution (becoming the second province after Lusaka Province to oppose

⁴⁷⁹ Author interview with former MMD Minister, August 7, 2008, Lusaka Zambia.

⁴⁸⁰ Author interview with former MMD Minister, July 22, 2008, Lusaka Zambia.

⁴⁸¹ *Ibid.*

the change) two Ministers who had come out as early opponents of a third term for Chiluba - Local Government Minister Ackson Sejani and Home Affairs Deputy Minister Edwin Hatembo- were sacked from cabinet by the President in late February. Officially fired for “conduct intended to incite tribal hatred” at the conference, their dismissal was widely seen as a warning to other parliamentarians of what could happen to those who did not tow the party line on the term limits question.⁴⁸² Seeing this lead many MPs to think “I could be fired! I don’t want this to happen to me. She has been fired, he has been fired because of that [opposing the third term], so I will refrain. That would deter any would-be dissenters.”⁴⁸³ Alternatively, signals were sent by the party that those MPs who supported the bid to remove term limits from both the party and national constitutions would be rewarded. One example was Levison Mumba, an MP who had formerly campaigned against the call to have President Chiluba run for another term of office at the Eastern Province MMD conference, who was appointed Minister for Eastern Province immediately after he reversed course and pledged to support the third term program.⁴⁸⁴

However, even though MMD MPs had historically been accustomed to thinking that MMD endorsement was the ticket to electoral victory, the increasingly competitive nature of the party system in Zambia by 2001 and the growing civil society movement against term abolition caused some parliamentarians to reconsider this tenet. The next section of this chapter will demonstrate how having the option to switch parties in Zambia created a situation in which many MPs and Ministers alike were able to follow their outcome preference for retaining executive term limits by lessening the potential costs of going against the party line.

⁴⁸² Ulyabusiku, Mabeni, Amos Malupenga and Sheikh Chifuwe. 2001. “Chiluba Fires 2 Ministers Over 3rd Term: I Expected It, Says Sejani” *The Post of Zambia*. 28 February.

⁴⁸³ Author interview with former MMD Minister, July 22, 2008, Lusaka Zambia.

⁴⁸⁴ *Africa Confidential*. “Zambia: The Cock Crows” Vol 42 N^o8, April 20, 2001.

Individual MPs' Decisions

Since a proposal to lift executive term limits was never officially tabled and voted upon in the Zambian National Assembly as it was in the Ugandan parliament, an alternative decision point must be designated for the Zambian case. For the majority of MPs, their key decision moment came on April 10, 2001 when parliamentarians were asked to sign a declaration opposed to changing the article on executive term limits in the national constitution at a prayer meeting organized by the Oasis Forum at the Cathedral of the Holy Cross in Lusaka. That day, fifty-nine members of parliament, including forty-three MMD ministers and MPs (out of 131) added their names to the declaration, thereby taking a definitive public stance on the third term issue. Over the following days, additional members of parliament signed the petition, which contained more than eighty names by the time the text and the list of signatories was published in *The Post* newspaper on April 12th.

How did the MMD members who signed the declaration ultimately choose to dissent from their party and proclaim themselves in opposition to additional terms in office for President Chiluba? The previous discussion of actors' outcome and action preferences seemed to suggest that MPs and Ministers were divided in their action preferences between whether lifting or retaining term limits would be the best strategy for ensuring the MMD remained competitive in the future, while their action preferences were also split between bowing to popular pressure to keep term limits in place and staying in the good graces of MMD party leaders by choosing to lift term limits. Therefore, just as in Uganda, MMD parliamentarians' outcome and action preferences did not always align. This drove MPs to search for the best way to adjudicate between the two. What factors ultimately persuaded close to half of all MMD MPs to follow a combination of outcome and action preferences that led them to oppose the third term?

As the following discussion will demonstrate, the increasingly competitive nature of the party system in Zambia as perceived by MPs not only produced a threat of replacement to the MMD that made upholding term limits necessary to maintain the party's future electoral chances, but also *created the possibility for MMD members to switch parties*. The viable option of party-switching made available to anti-third term parliamentarians a strategy that allowed to them to voice concerns and/or ultimately exit the party if necessary because they knew that they would still be able to vie for re-election under a different party if they were expelled or decampaigned from the MMD for opposing the lifting of term limits. One current PF member of parliament described the sentiment widely shared among politicians in Zambia regarding the ease of switching parties, noting that MPs

“are not bound to their so-called traditional parties. You could have been MMD for five years and you could leave MMD to join another party and you could be embraced in another party and visa-versa. I think people are very free here to move between parties... and are able to be re-elected where chance affords them. It doesn't exist here that you are suspect [if you switch parties]... Even independents- we even have independents who have been supported by their independent-minded constituents and they got them into parliament... For example, if my party will not adopt me, I would try to stand as an independent knowing very well that I have a lot of independent colleagues who would vote for me. If I don't go that route, I would go to another party if they embraced me. I would be confident that people would not say, ah, she was a member of this party, now she has joined us so she's a traitor or what. No! I think Zambian people are very open-minded on these things... It just depends how you work with the various constituencies and how popular you are.

This is in direct contrast to their Ugandan counterparts who felt compelled to remain loyal to the NRM party even if they personally disagreed with lifting term limits because they did not have a viable option of switching parties.

The threat of replacement by an opposition party and having the option to switch parties impacted both MPs outcome and action preferences in parallel ways. In terms of parliamentarians' outcome preferences, recall that when the MPs and Ministers interviewed

spoke of their early-held outcome preferences, many of them filtered their ultimate view on the term limits issue through the lens of how the outcome would affect the MMD as a party. They ultimately desired two things- to ensure the MMD's future competitiveness and to keep the party from fracturing. The perceived threat of replacement posed by a strengthening opposition convinced many MPs that lifting term limits might actually inhibit the MMD's future electoral chances since tampering with the constitution would harm the MMD's democratic reputation with voters and disadvantage the MMD later if an opposition candidate won the presidency under a constitution with no limits on executive tenure. Many MPs agreed with one former minister who perceived that "the opposition was growing faster"⁴⁸⁵ and therefore felt that it was dangerous to lift term limits because it could create a permanent incumbent advantage for an opposition party if the MMD went on to lose the presidential election in 2001 as the Parti Socialiste in Senegal had lost the 2000 presidential elections after lifting term limits for Diouf in 1998. Furthermore, many MPs began to wonder whether having President Chiluba stand again would actually be a *disadvantage* to the party. One current MP claims that parliamentarians at the time "knew that Chiluba had engaged in corruption. Therefore, they couldn't be with him on the third term. The third term would harm the party."⁴⁸⁶

In terms of party cohesion, early on some parliamentarians felt that lifting term limits and allowing Chiluba to be the MMD candidate in the 2001 elections would help hold the party together while others believed that the issue would cause additional rifts in the party. However, by early April it was becoming more and more apparent that, contrary to keeping the party united, the term limit debate itself was tearing the party apart. One former minister remembered

⁴⁸⁵ Author interview with former MMD Minister, August 1, 2008, Lusaka, Zambia

⁴⁸⁶ Author interview with PF member of Parliament, July 24, 2008, Lusaka Zambia

sensing that the “party was being divided by the day”⁴⁸⁷ as organized factions emerged within the MMD around both the pro- and anti-third term positions, each seeking to sway other parliamentarians to their side.⁴⁸⁸ “The lobby within the party was very strong to stop the third term,” remarked another then-minister, “we thought it was going to break the party.”⁴⁸⁹ At a meeting of the MMD National Executive Committee (NEC, the party’s leadership body which is composed largely of cabinet ministers) on March 24th, the NEC members were asked by the President to go around the table pronouncing themselves on the term limit issue. All interviewees who were present at the meeting report that the ministers were split close to 50/50 following a heated debate on the issue.⁴⁹⁰ According to a western embassy official, those ministers in the group who were opposed to lifting term limits claimed that they were prepared “to form a new party to remove Chiluba” from office if they were expelled from the MMD on account of their defiance.⁴⁹¹ The ability for MPs to switch parties created the real possibility of large-scale defections from the MMD if the amendment lifting term limits was passed. Therefore, it became increasingly clear to many MMD members that retaining term limits was the strategy that was most likely to keep the party from fracturing fully.

The ability to switch parties also allowed parliamentarians to adjudicate between their two action preferences, namely maintaining favor with the MMD leadership and preserving their reputation with voters. When it became apparent to many MMD MPs and Ministers that it would be impossible to achieve both of these action preferences simultaneously, the ability to switch parties provided them with a “safety valve” strategy that allowed them to discount the threat of punishment by the MMD for opposing the term limit amendment and instead side with

⁴⁸⁷ Author interview with former MMD Minister, August 6, 2008, Lusaka, Zambia.

⁴⁸⁸ Author interview with former MMD Minister, August 7, 2008, Lusaka, Zambia.

⁴⁸⁹ Author interview with former MMD Minister, August 6, 2008, Lusaka, Zambia.

⁴⁹⁰ *Ibid*, and Author interview with former MMD Minister, August 7, 2008, Lusaka, Zambia

⁴⁹¹ Author interview with western embassy political section officer, August 10, 2008, Lusaka, Zambia.

the voting public against the third term. This is because an MP who was expelled or decampaigned by the MMD for challenging the lifting of term limits could still run in the next election and have a reasonable chance of winning under a different party. Early on in the term limit debate, when parliamentarians were uncertain what views the majority of the voting public held regarding amending the constitution to abolish presidential term limits, many took care not to publically pronounce themselves either way on the issue. One Oasis Forum leader recalls that most MPs were initially afraid to come out in public against the third term and did not attend the first meeting at the Oasis Restaurant or other early events.⁴⁹² The main reason was because they were fearful of the consequences they might face within the party for opposing the president, as they had already witnessed the sacking of the early vocal opponents of the third term plan.⁴⁹³ However, by early April, the bold and expanding Oasis Forum civil society movement revealed that public sentiment was widely against changing the constitution to allow Chiluba to run for additional terms in office. Observing this strong public outcry, MMD MPs began to see that advocating for the abolition of term limits would be detrimental to their re-election chances with their constituencies. One respondent divulged that “the pressure from outside helped them [MMD members] to make up their minds quickly and to reflect on what they promised when they came into power... and they eventually came out [against changing term limits].”⁴⁹⁴ Another then-parliamentarian noted that many MPs and ministers would not have had the courage to publically come out in favor of retaining term limits “if not for the safe space that Oasis created.”⁴⁹⁵

⁴⁹² Author interview with civil society leader, July 24, 2008, Lusaka, Zambia.

⁴⁹³ Author interview with former MMD Minister, August 7, 2008, Lusaka, Zambia

⁴⁹⁴ Author interview with PF member of parliament, July 24, 2008, Lusaka, Zambia.

⁴⁹⁵ Author interview with former MMD MP, July 25, 2001, Lusaka, Zambia.

As a result, through late March into April “people from MMD went to join [the Oasis movement].”⁴⁹⁶ National Vice President Christon Tembo and MMD party Vice President Godfrey Miyanda addressed large public protests in Lusaka. Other ministers such as Vincent Malambo and Newton N’guni toured the country speaking against the alteration of the term limit law at public fora organized by local press clubs⁴⁹⁷ while rank and file MPs were seen handing out leaflets and anti-third term t-shirts along Cairo Road, the main thoroughfare through downtown Lusaka. Parliamentarians decided to come out and publically oppose lifting term limits because “they were looking at the number of organizations who they were thinking would come and back them up”⁴⁹⁸ during the forthcoming election and decided it was worth the risk of displeasing the MMD leadership. In fact, von Doepp observed that the growing public opposition to altering the term limit provision made it so that “the cost of *not* challenging it became even higher for MMD politicians who sought to survive over the medium to longer term”⁴⁹⁹ Indeed, a number of Oasis Forum leaders and MPs who were interviewed all describe the parliamentarians who were late in coming out against the third term as “joining for self-interested reasons for re-election,”⁵⁰⁰ indicating that many MPs decided to follow their action preference of retaining favor with constituents and abandoned their action preference of staying in the good graces of the MMD leadership based on their personal calculations regarding what was best for their own political survival.

Thus, when the three church mother bodies in the Oasis Forum organized a prayer meeting and “day of reflection” on the term limit issue at the Anglican Cathedral of the Holy

⁴⁹⁶ Author interview with former MMD Minister, August 1, 2008, Lusaka, Zambia.

⁴⁹⁷ Author interview with former MMD Minister, August 7, 2008, Lusaka, Zambia.

⁴⁹⁸ Author interview with former MMD Minister, August 1, 2008, Lusaka, Zambia.

⁴⁹⁹ VonDoepp, 2005, p. 81

⁵⁰⁰ Author interview with civil society leader, July 24, 2008, Lusaka, Zambia; Author interview with former MMD MP, July 25, 2001, Lusaka, Zambia.

Cross in Lusaka on April 10th, many MMD ministers and MPs chose to attend “to show they were against this third term business.”⁵⁰¹ During the meeting, which was attended by a wide cross section of society, a declaration was initiated among parliamentarians that pledged the signers to defend the Constitution. The document, later termed the “Cathedral Declaration” began with the words ““We the undersigned members of parliament, categorically state that we are opposed to any attempts to confer a third term of office on the President, Dr. FJT Chiluba, however contrived.”⁵⁰² One former minister remembers that he got the feeling that day that the message in the room was “Those of you who are opposed to, you members of parliament... can you show today that you are on the side of the people? Sign!”⁵⁰³ That day, emboldened by the presence of so many fellow MMD members, fifty-nine MPs, including forty-three MMD members added their name to the petition which was subsequently published in *The Post* newspaper on April 12th under a headline exclaiming “Chiluba Loses Third Term Bid.” In the following days, an additional twenty signatures were collected as the petition was taken around to “MP offices or wherever they could be found,”⁵⁰⁴ which resulted in a total of twenty-one MMD Ministers and fifty MMD MPs signing the document. Thus, even before a bill eliminating term limits from the constitution was tabled in Parliament, where only fifty-three MPs would have to oppose such a bill to defeat it, more than eighty MPs had made the decision to vote against such an amendment. One former MMD Minister says of his co-parliamentarians after the prayer meeting “at the end of the day we were sufficiently galvanized to start a meaningful movement against this.”⁵⁰⁵

⁵⁰¹ *Ibid.*

⁵⁰² Malupenga, Amos. 2001. “Chiluba Loses Third Term Bid” *The Post of Zambia*, April 12.

⁵⁰³ Author interview with former MMD Minister, July 22, 2008, Lusaka, Zambia.

⁵⁰⁴ Author interview with civil society leader, July 24, 2008, Lusaka, Zambia

⁵⁰⁵ Author interview with former MMD Minister, July 22, 2008, Lusaka, Zambia.

In sum, many MPs and Ministers decided to privilege an equal electoral playing field, the cohesion of their party and the views of their constituents over their commitment to the party leadership because the ability to switch parties gave parliamentarians a “safety valve” to overcome potential punishment from the party. In fact, as opposition parties began to capitalize on the anti-third term sentiment to stage their own protest marches, some parliamentarians wondered if the anti-third term mood among voters would turn into an anti-MMD mood come election time. Accordingly, when twenty-two MMD ministers and MPs were expelled from the party by the MMD national convention at Chiluba’s behest on May 2, 2001 for their open opposition to the third term, most did not even wait until their court challenge over the legality of their dismissal was decided before many of them formed a new parties- the Forum for Democracy and Development (FDD) by Tembo, Nawakwi and others and the Heritage Party by Miyanda- or joined an established opposition party. As prominent ministers left the MMD, a number of other MPs followed as “backbenchers went with who they thought would win”⁵⁰⁶ the next presidential election in order to increase their own chances of re-taking their parliamentary seat.

Aggregate Decision- The Result

With the signatories of the April 10th Cathedral Declaration physically barred by loyal party cadres from entering the MMD extra-ordinary party convention that was held over April 27-29th, 2001, the pro-third term camp was able to amend the MMD constitution to eliminate term limits on the party presidency. However, this was a largely futile exercise because it was glaringly apparent that there were not enough votes in the National Assembly to lift executive

⁵⁰⁶ Author interview with former MMD Minister, August 6, 2008, Lusaka, Zambia.

term limits from the national constitution through an amendment based on the number of signatories to the Cathedral Declaration. The fact that the Chiluba did not have the support of anywhere near the two-thirds of parliamentarians he would need to amend the national constitution was further emphasized when, on May 3, 2001, sacked Ministers Ackson Sejani and Mike Mulungoti submitted to the Speaker of the National Assembly a motion of impeachment against President Chiluba that had been signed by 65 parliamentarians. The impeachment motion maintained that “[t]he president has grossly misconducted himself by failing to perform with dignity and leadership the functions of president in that he has initiated and orchestrated the third term debate through bribes applied to the Movement for Multiparty Democracy (MMD) members as well as other citizens for selfish rather than national interest” and also accused him of six other offenses including using state funds to bankroll the recent MMD convention, tapping of telephone lines and mishandling the privatization of Zambia’s copper mines among others. The impeachment motion was the final decisive signal to the President that lifting term limits through an amendment bill in parliament would not be possible.

Chiluba and his inner circle briefly considering circumventing the parliamentary dead-end by putting the term limit question to a popular referendum, but quickly abandoned the idea due to the exorbitant cost of such an exercise⁵⁰⁷ and the uncertainty of the outcome given the Oasis Forum’s growing influence even in rural areas of the country. With no options left, one former minister explained that “it wasn’t long before the president called in quits in terms of his desire to seek a third term. It was a combination of pressure from all over. Those who were urging him to go on were getting fewer and fewer, weaker and weaker by the day. So he had no

⁵⁰⁷ Author interview with former MMD Minister, August 6, 2008, Lusaka, Zambia.

choice but the drop that plot.”⁵⁰⁸ Accordingly, on May 5th, President Chiluba went on Zambian public TV to formally announce that he would not run at the MMD’s candidate in the upcoming election, thus ending the term limit debate in Zambia. Later that year, on December 27th, the MMD’s presidential candidate, Levy Mwanawasa was elected by a less than two point margin over the UPND’s Anderson Mazoka in the closest electoral race in Zambian history. Chiluba officially stepped down in early January when Mwanawasa was sworn in as president in accordance with the two-term limit enshrined (and now upheld) in the Zambian constitution.

⁵⁰⁸ Author interview with former MMD Minister, July 22, 2008, Lusaka, Zambia.

CHAPTER 7

CONCLUSION

Observing the patterns of executive term limit adoption and adherence across sub-Saharan Africa since the early 1990s leads us to rethink how constraints on executive power operate in practice in young electoral democracies. Often when American presidents have acted in ways that have seemingly overstepped their constitutional bounds, (i.e. Nixon's abuse of office as detailed in Schlesinger's *The Imperial Presidency*,⁵⁰⁹ and more recently the George W. Bush administration's sweepingly broad assertion of the executive to authorize the use of torture against prisoners of war following 9/11,) ⁵¹⁰ scholars have pointed to the failure of the judiciary, legislature and other governmental bodies to check excessive presidential actions as the main cause of the executive branch's ability to circumvent constraints on its power. However, the recent cases of term limit abrogation across sub-Saharan Africa call into question the universality of this argument since, in these cases, African legislatures *themselves* oversaw the revocation of constraints on executive tenure. Set in an environment of non-programmatic parties, patronage networks, limited professional opportunities outside of government and a historical prevalence of non-divided governments, constraints on executive tenure are often jettisoned by members of parliament in situations where ruling party MPs feel their own electoral odds can be improved by abolishing term limits so they can ride to re-election on the coattails of the incumbent President. As argued in the previous chapters, the only factor that seems to temper this mutual electoral advancement is a competitive party system that features opposition parties that pose a credible threat of replacement to the incumbent party. By creating the possibility of the incumbent party

⁵⁰⁹ Schlesinger, Arthur M. 1973. *The Imperial Presidency*. Boston: Houghton Mifflin.

⁵¹⁰ Pearlstein, Deborah. 2006. "Finding Effective Constraints on Executive Power: Interrogation, Detention, and Torture" *Indiana Law Journal*. p. 1255-1287.

losing power in the foreseeable future, the presence of a competitive party system compels the incumbent party to retain checks on executive power so as to avoid creating a permanent incumbent advantage for an opposition party should their party lose the presidency in the future.

Yet, questions remain as to how applicable is this argument is beyond the borders of Africa and beyond the issue of term limits as just one example of a constraint on executive power. This final chapter explores these questions in two ways. First, an additional statistical analysis will be undertaken in order to assess the extent to which level of competitiveness within the party system explains variation in term limit adherence across other third-wave regions where constraints on executive tenure have also been challenged. Second, I will explore whether the variation in enforcement of other limits on presidential discretion codified in African constitutions can also be explained by differences in the relative balance of power between parties in sub-Saharan states, or if different mechanisms are at play when African executives circumvent other limits on their power. Finally, the chapter will conclude with a brief discussion of how the findings from this project help inform contemporary debates in comparative politics.

Term Limit Challenges Across the “Third Wave”

As documented in the Introductory chapter, sub-Saharan Africa is not the only region that has seen a recent rash of contestation over executive term limit laws. In third wave liberalizers from Kazakhstan and Sri Lanka to Nicaragua, executives coming to the end of their time in office have sought to extend their stay in power by either extending (soft contravention) or outright abolishing (hard contravention) term limit provisions. Is a low level of competition within the party system the main factor that drives term limit abrogation in these other countries

and regions, or is the relative strength of the incumbent party vs. the opposition an explanation that only holds in the sub-Saharan context due to the unique features of African politics?

In order to assess the degree to which this explanations travels to other regional contexts, a the same series of logit analyses as in Chapter 4 is performed using all Latin American and former Soviet republic president-country cases since 1990 in which the president is directly elected and is bound by a constitutional limit on tenure. Latin America and the former Soviet Republics were chosen for inclusion in the analysis because virtually all countries in these regions are considered to be part of the “third wave” of liberalization (unlike South and East Asia where a handful of countries liberalized but many in the region did not), are predominated by presidential systems (unlike Eastern Europe where parliamentary system are the norm) and because most countries in these regions have at least one executive who has reached the end of the two term limit.⁵¹¹ In all, the relevant Latin American and Central Asian regions provide 74 president-country observations from the time period of 1990-2011.⁵¹² Among Latin American cases, there has been one case of term limit abrogation and nine cases of term limit extension⁵¹³ while among former Soviet republic states there have been four cases of total abolition of term limits and two cases of extended mandates. In order to investigate whether term limit abolition and extension are both driven by similar factors or if soft contravention occur under different circumstances than hard contravention, the regression will be variously run with two different

⁵¹¹ Latin American and Central Asian countries not included in the analysis are Estonia, Latvia, Lithuania, Moldova, Guyana and Belize (in which the executive is not directly elected), Georgia and Kyrgyzstan (where no executive has yet reached the end of a second term in office), Suriname (where there are no term limits) and French Guiana (which is legally part of France).

⁵¹² This number is high because of the fact that most Latin American countries have/had a one-term limit of four or five years for most of the post-1990 period. Therefore, some countries such as Colombia have as many as five presidents who qualify for inclusion in the analysis. In contrast, in most Central Asian countries, only one former president qualifies for inclusion due to both a two-term limit and a number of early resignations by executives.

⁵¹³ Nicaragua is counted here as an extension, though it is currently unclear whether the Supreme Court’s 2009 ruling that it is unconstitutional to prohibit reelection means that term limits have been eradicated completely or if only one reelection will be allowed.

outcome classifications- one that only considers full abrogation (0= term limits lifted, 1= term limits retained (even if extended) and a second that combines both abrogations and extensions into one category (0= term limits abolished or extended 1= term limits remain unchanged). In addition, the first two rounds of the analysis will incorporate only the Latin American and former Soviet republic president-country cases, but a second two rounds will be run with the sub-Saharan cases added in with the other two regions.

The possible explanatory variables included in this expanded logit analysis include four of the five relevant variables that were included in the model tested against the 26 sub-Saharan cases in Chapter 4: 1) Amount of donor aid received as a percentage of GNI in the three years prior to the end of the president's last term in office, 2) Level of democracy, 3) the freeness and fairness of the "third term" election and 4) the competitiveness of the party system as classified based on electoral results over three election cycles. The colonial power variable that was incorporated in the original model is not included here due to a lack of variation *within* each region (i.e. mostly Spanish/Portuguese in Latin America, all Russian in the former Soviet republics) combined with a virtually perfect variation *between* regions in terms of former colonial powers causes the colonial power variable to be unfit for analysis.

In terms of measurement of the four included variables, many of the same sources that were used for the African cases in chapter 4 are used to collect the data on the Latin American and Central Asian cases for three of the variables, including the World Bank Development Indicators for the aid as percentage of GNI figures, Freedom House as a basis for the inverted level of democracy scores, and electoral data from Interparliamentary Union (IPU) election archives, Election Guide of the International Foundation for Election Systems (IFES), and various Europa Regional Surveys of the World to build the party system competitiveness

measure. For the fourth variable, the freeness and fairness of elections, Lindberg's dataset could not be used for the larger sample since it only covers African polities. Thus, for the Latin American and former Soviet republics cases (and also for the African cases in this part of the analysis), the Free and Fair Elections (FF_Elect)⁵¹⁴ variable from the CIRI Human Rights Data Project⁵¹⁵ will be employed instead.⁵¹⁶ To construct the FF_Elect score for each country, expert coding of United States State Department's Country Reports on Human Rights Practices for each country/year is undertaken in order to rate the freeness and fairness of elections in that year or recent years on a three point scale.⁵¹⁷ The assigned values are as followed: 0= neither free nor fair elections; 1= moderately free and fair elections; 2= very free and fair elections. The FF_Elect variable is highly correlated with Lindberg's Free and Fair Election variable (at 0.6331) and when Lindberg's measures are replaced with FF_Elect values in the logit models in Chapter 4, Table 4.5, similar findings result with both the competitiveness of the party system and colonial power proving to be the only significant variables, and significant at the 95% level in each of the five of the models in which free and fair elections are included.

The results of the logit analyses (see Table 7.1) demonstrate that the competitiveness within the party system corresponds to a higher degree with term limit enforcement outcomes than the other explanatory variable in other third wave regions of the world in all six of the

⁵¹⁴ His variable has recently been renamed as Electoral Self-Determination (ELECSD) but is coded the same way across all years.

⁵¹⁵ Cingranelli, David L. & David L. Richards, 2010. *The Cingranelli-Richards (CIRI) Human Rights Dataset*, Version 2010.08.15, <http://ciri.binghamton.edu/> (Accessed October 2011).

⁵¹⁶ This dataset was chosen over others that attempt to measure the fairness of the conduct of elections (such as the Economist Intelligence Unit's Democracy Index and Polity's Political Competition variable) both because it focused more narrowly on the selection of candidate through elections and also covered from 1981-2009, a wider array of years than other measures which was needed in order to accurately code Latin American cases back into the 1980s.

⁵¹⁷ For detailed information on methodology, see the CIRI coding manual at: http://ciri.binghamton.edu/documentation/ciri_coding_guide.pdf

analyses.⁵¹⁸ Just as in the analysis of the African cases in Chapter 4 (Table 4.5), the only other variable that is found to be significant in any of the models is the level of democracy, which is only significant at the 90% level in models Four and Five.

Table 7.1: Results of Logistic Regression Models on Term Limit Enforcement

	Model 1: <i>LA/FSRs Abolish</i>	Model 2: <i>LA/FSRs Abolish or Extend</i>	Model 3: <i>LA/FSRs/Afr Abolish</i>	Model 4: <i>LA/FSRs/Afr Abolish or Extend</i>	Model 5: <i>LA/FSRs/Afr Abolish or Extend</i>	Model 6: <i>LA/FSRs/Afr Abolish or Extend</i>
Aid as % of GNI	3.1182 (1.37)	-0.0024 (-0.03)	0.0013 (0.03)	0.0707 (1.32)	0.06690 (1.29)	0.0597 (1.22)
Level of Democracy	0.3024 (1.16)	0.2201 (1.35)	0.2864 (1.56)	0.2508 ‡ (1.75)	0.2185 ‡ (1.66)	
Free and Fair Elections	2.2790 (1.27)	0.4361 (0.60)	0.2117 (0.26)	-0.2674 (-0.39)		0.1686 (0.26)
Competitiveness of Party System	.6268 (0.62)	1.363* (2.27)	1.2551** (2.58)	1.6367*** (3.65)	1.6351*** (3.95)	1.8243*** (4.27)
Constant	-5.1184 (-1.77)	-4.9261 (-2.53)	-3.0582 (-2.41)	-4.8932 (-3.42)	-5.0311 (-3.53)	-3.6583 (-3.12)
Pseudo R N	0.6595 72	0.3809 72	0.4923 97	0.4440 97	0.4466 98	0.4168 97

Coefficients above, z-value below. 2-tailed p-value: ‡ p< 0.1, * p<0.05, ** p<0.01, *** p<0.001

The fact that the level of party system competitiveness appears to be a driving factor in variations in term limit law enforcement across very different regional and political contexts supports the idea that constitutional provisions are in danger of being circumvented or

⁵¹⁸ Results are likely inconclusive in the first model since there are only five cases of completed term limit abolition within Latin America and the Former Soviet Republics

overturned if and when the power dynamic in place at the time of rule adoption shifts within a state. While it may not seem surprising that new constitutional rules, such as term limit provisions passed in the 1990s in both sub-Saharan Africa and Central Asia could face challenges early on as new political elites experiment with different institutional structures, the Latin American cases show that even long-entrenched rules can be altered if the level of competition in the party system has declined to the point where one party is confident of dominance into the foreseeable future.⁵¹⁹ Across Latin America, bans on re-election (or consecutive re-election in some cases) were written into the constitutions of virtually all countries in the region during the nineteenth century (i.e. 1853 in Argentina, 1822 in Peru, 1821 in Colombia, 1871 in Chile, 1891 in Brazil, and so on).⁵²⁰ Yet, the fact that these long-standing provisions⁵²¹ have been challenged recently in a number of Latin American states suggests that we cannot assume that rule habituation or institutional inertia will be able to keep in place established rules despite changes in the underlying power balance in the polity. Furthermore, the level of party system competitiveness is a factor that can explain variation in term limit enforcement within both young (Central Asia), intermediate (sub-Saharan Africa) and older (Latin America) party systems. In each region, states in which one or more opposition parties

⁵¹⁹ There are some countries in Latin America that have experienced earlier periods of low levels of inter-party competitiveness but have still retained term limits (i.e. Mexico during the long-time dominance of the Institutional Revolutionary Party (PRI) from the 1930s to 2000). In such cases, the competition between factions *within* the ruling party creates an environment of intra-party competition that leads to each faction favoring the enforcement of the no re-election rule. This to a large degree mirrors the situation in present day Nigeria where the main venue of competition is within the People's Democratic Party (PDP) between northern Muslim and southern Christian factions rather than between the PDP and opposition parties. This, combined with the informal practice of rotating the presidency between a Muslim and a Christian, greatly contributed to the failure of President Obasanjo's bid to lift executive term limits in Nigeria in 2006.

⁵²⁰ Carey John M. 2009. "The Re-election Debate in Latin America," in William C. Smith, Ed. *Latin American Democratic Transformations: Institutions, Actors and Processes*. Chichester, West Sussex, U.K.: Wiley-Blackwell. p. 80-81.

⁵²¹ Term limit provisions have not been in force continuously in all Latin American countries since the 19th century, however. For example, during the military dictatorships in the second half of the 20th century, many constitutions barring reelection were suspended, while the 1980 constitution in Chile provided an avenue for Pinochet's (failed) reelection in the next election.

are able to continuously pose a credible threat of replacement to the ruling party, executive term limits have remained unchallenged even in the face of successful contravention in neighboring countries.

A brief country comparison of Armenia and Azerbaijan, neighboring countries nestled between the Black and Caspian Seas in the post-Soviet region, demonstrates how differences in the level of party system competitiveness leads to various term limit enforcement outcomes in regions outside of sub-Saharan Africa. Both countries held their first presidential elections as independent states in the fall of 1991 (Azerbaijan in September, Armenia in November) and new constitutions containing two-term limits on the executive were promulgated by the elected governments of both countries in 1995. Furthermore, in each country, the first president to serve out their full terms, Heydar Aliyev in Azerbaijan and Levon Ter-Petrossian in Armenia, both stepped down as scheduled at the conclusion of their second terms in office. Yet, despite their similar beginnings as constitutional presidencies, by 2008 when subsequent Presidents Kocharyan in Armenia and Ilham Aliyev in Azerbaijan were in their second and constitutionally-mandated final terms in office, their trajectories diverged.

Armenia's political history since independence in 1991 has been marked by high levels of political competition that has led to numerous party turnovers in both the presidency and the legislature. During the 1990s, the Pan-Armenian National Movement of President Ter-Petrossian dominated the legislature, but upon the 1998 election of independent candidate Kocharyan to the presidency, control of the legislature likewise shifted to the Miasnutiun (Unity) bloc of parties that supported Kocharyan. Yet, in the 2003 legislative elections held shortly after Kocharyan's re-election to a second term, the Republican Party of Armenia (HHK) won control of the legislature, producing what amounted to a divided government in Armenia. As a result,

Kocharyan had no choice but to step down at the end of his second term in 2008. In the subsequent election, Serzh Sargsyan of the HKK won the presidency, thus marking the second turn-over in the presidency in as many opportunities. The high level of competition between parties and coalitions in Armenia has not only provided the impetus for the enforcement of executive term limits by all parties, but has also lead to further limitations being placed on executive power in general. Most notably, amendments passed in 2005 sought to strengthen the authority of other branches of government through transferring some powers formally invested in the presidency to the National Assembly and the Prime Minister and by removing the President from the Council of Judges, thereby furthering the independence of the judiciary.

The trend of party competition in Azerbaijan has followed the opposite path of the trend in Armenia. The New Azerbaijan Party (YAP) of President H. Aliyev (the father) won a plurality (47%) but not a majority of seats in the first National Assembly elections in 1995-1996, with eight other parties and many independent candidates also winning seats. However, in subsequent legislative elections in 2000, 2005 and 2010, YAP has continually won a majority of seats capturing a high of over 62% of the seats in 2000. In each of these contests, independent candidates have won the bulk of the remaining seats, with the highest seat percentage won by an opposition party being the paltry 7.2% the Azadliq bloc won in the 2005 elections. During this time span, the presidency has not only stayed within the YAP, but also “in the family” as Heydar Aliyev’s son Ilham won the 2003 election after his father appointed him as the YAP’s sole candidate when he stepped down for health reasons in the weeks before the October contest. This extreme lack of party competition with virtually no threat of replacement posed by any opposition group paved the way for Aliyev the son to seek the removal of executive term limits shortly following his re-election in 2008. After the Azeri parliament approved the amendment

by a vote of 100 to 7 in late 2008, a popular referendum held in March 2009 to secure its passage resulted in 90% of citizens approving the abolition of term limits, a tally vigorously disputed by opposition forces. In addition to the removal of a limit on executive tenure, the increasing lack of party competition has allowed the YAP to pass other amendments to the constitution in both 2002 and 2009 that strengthened the presidency and weakens avenues for potential political opposition, including switching the order of presidential succession (in case of presidential incapacitation) from the elected speaker of the parliament to the presidential-appointed prime minister, moving away from a proportional representation to a majoritarian electoral system and implementing measures to further restrict press freedoms.

The finding from the logit analyses that the level of party competition accounts for a large part of the variation in term limit outcomes across many third wave regions does not, of course, suggest that the causal mechanisms that link party competition with term limit enforcement are exactly the same in each region. For example, while members of parliament from non-ideological ruling parties across sub-Saharan Africa's may feel compelled to keep their president in power in order to maintain the prebendalist system that keeps them in office, Latin American MPs from parties that can be placed on a more traditional left-right spectrum may have different reasons for wanting to extend presidential terms in their polities, where patronage tends to take a more party-voter clientalism form.⁵²² Additional case study work is needed to flesh out the intervening links between levels of party competition and term limit enforcement in non-African cases.

⁵²² Kitschelt, Herbert, and Steven Wilkinson. 2007. *Patrons, Clients, and Policies: Patterns of Democratic Accountability and Political Competition*. Cambridge, UK: Cambridge University Press. p. 25

Party Competition as a General Constraint on Executive Power

The second question that springs from the findings of this research that links term limit enforcement to party competition is the question of whether variation in enforcement of other limits on presidential power can also be explained by party system competitiveness, or if different factors affect the strength of other constraints on presidential authority. Since the number of times one person can serve as president (an electoral issue at its base) appears to be primarily affected by the level of competitiveness in the party system (another election-related factor), should we assume that limits on executive power that are *not* directly related to the electoral realm will be influenced by more proximate causes rather than party competition?

It is outside of the scope of this project to undertake a systematic study of the cause of observable variation in the enforcement of other constraints on executive power in emerging democracies, but surveying some recent research on levels of interference in the judiciary by sitting presidents in third wave countries can point to some preliminary conclusions. Rules that establish the separation of powers between branches of government delineate the boundaries of presidential authority. While breaches of these boundaries may not be as cut and dry as breaches of term limit provisions, various scholars have found ways to operationalize executive interference in the judiciary in ways that allows them to compare variations in presidential adherence to rules related to judicial autonomy.

A number of these studies investigating the extent to which judicial institutions are undermined or subverted by political leaders in new democracies share this project's findings and identify the level of party competition as the primary independent variable. In much the same way as I have argued that the probability of executive term limits being enforced increases as the level of robust party competition rises, so too do these studies find that higher levels of

electoral competition compel leaders to refrain from contravening constitutional provisions on the separation of powers. For example, Ginsburg argues that in emerging Asian democracies, leaders in competitive party systems will uphold judicial autonomy in order to create an insurance mechanism against future persecution in the event that they find themselves out of power after the next election and a member of the opposition.⁵²³ Bill Chavez finds similar dynamics at play in Latin America and argues that leaders and parties who expect to remain in power for the foreseeable future will interfere in judicial matters in order to eradicate any barriers that might block them from exercising full political discretion.⁵²⁴ Findings such as these seem to support the idea that the level of party competition in a given country does affect the degree to which presidents are compelled to acquiesce to other constraints on their office over and above executive term limits.

However, VonDoepp's work on judicial politics in Southern Africa suggests that, at least in sub-Saharan cases, just taking into account levels of party competition and electoral uncertainty may be insufficient for understanding variation in the enforcement of executive constraints. In his study on differences in the degree to which executives have overstepped their legal bounds to interfere in judicial autonomy in Malawi, Zambia and Namibia, he looks at a range of actions and behaviors that undermine judicial autonomy, including purging opponents from the bench, altering the institutional protections afforded to the judiciary by law, intimidating or incentivizing individual judges, declaring some issues outside of judicial control, and other such maneuvers in the three countries over the 1990s-2000s. Based on his findings regarding the variation in the level of executive interference in the judiciary both between

⁵²³ Ginsburg, Tom. 2003. *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*. New York: Cambridge University Press.

⁵²⁴ Bill Chavez, Rebecca. 2004. "The Evolution of Judicial Autonomy in Argentina: Establishing the Rule of Law in an Ultrapresidential System" *Journal of Latin American Studies*, 36: 451-478.

countries and within each country over time, VonDoepp argues that “while levels of electoral uncertainty, party competition and party discipline have played some role, they simply do not account for the nature and extent of executive manipulation of judicial institutions in the southern African countries.”⁵²⁵ To gain a complete understanding of when executive leaders do or do not attempt to interfere in judicial autonomy, he maintains that factors such as the extent to which key political questions are referred to the judiciary (level of judicialization) and the extent to which judges themselves have taken an active role in fighting for judicial autonomy. In cases where the judiciary has taken it upon itself to adjudicate important political issues and where judges rarely use the bench to block executive prerogatives, VonDoepp finds that executives do not face any incentive to intervene in the judiciary. Alternatively, in cases in which the judiciary has been charged with ruling on issues that affect the discretion of the ruling party and where judges have displayed the willingness to rule against government interests in the past, executives are more likely to act in ways that undermine judicial autonomy.⁵²⁶

VonDoepp argues that these findings hold even when levels of electoral uncertainty are added to the mix. For example, in Namibia, SWAPO’s dominance in the party system should have paved the way for Nujoma to interfere in the judiciary virtually unchecked per the strategic framework theories forwarded by Ginsburg and Bill Chavez and the findings from this project on term limit adherence. However, VonDoepp’s analysis contends that, in reality, Nujoma’s administration displayed the least proclivity to undermine judicial autonomy of the five presidents surveyed primarily due to the low levels of judicialization of issues in the country.⁵²⁷ He finds the opposition in Malawi- the high levels of party competition there should have lead

⁵²⁵ VonDoepp, Peter. 2009. *Judicial Politics in New Democracies: Cases from Southern Africa*. Boulder, CO: Lynne Rienner Publishers. p. 25

⁵²⁶ *Ibid*, p. 37, 161-165

⁵²⁷ *Ibid*, p. 116

both Muluzi and Murtharika to uphold judicial autonomy in order to strengthen the courts in case they and their party lost power in the future. However, the high levels of judicialization and anti-government signaling by judges combined to compel them both to interfere regularly with the operation of the judiciary.⁵²⁸ Based on these case studies, VonDoepp concludes that, in the end, these judicial-realm factors play a larger role in shaping patterns of presidential circumvention of constraints on their power vis-à-vis the judiciary that do leaders' and parties' perceptions of their future electoral chances in and of themselves.

However, one question that VonDoepp leaves unanswered in his study is *why* the level of judicialization is lower in Namibia than in Malawi or Zambia,⁵²⁹ which is a critical issue that fundamentally affects the causal story that VonDoepp presents. It is possible that Namibia features a lower level of judicialization, and thus less need for the executive to interfere in the judiciary, precisely *because* the dominance of SWAPO. If SWAPO is able to control what issues are referred to the courts and/or choose to handle more politically sensitive matters within the party rather than submitting them to judicial scrutiny, and opposition forces are blocked by the ruling party from accessing the courts, the extent of judicialization of political issues becomes endogenous to the level of party competition in the polity. If this is the case, it could be said that VonDoepp has identified mechanisms that link party competition and constitutional enforcement in similar but opposite way than Ginsburg, Bill Chavez and I have identified in our cases. Rather than low levels of party competition leading to executive contravention of constitutional constraints and visa-versa, VonDoepp's cases of levels of judicial interference

⁵²⁸ *Ibid*, 162-163

⁵²⁹ VonDoepp, 2009, p. 146

suggest that low level of party competition lead to low levels of judicial interference and high levels of party competition lead to a higher degree of executive interference in the courts.⁵³⁰

Thus, while VonDoepp offers the important lesson that the level of party competition may not always produce the same directional variation in constitutional rule adherence for every type of constraint on executive power, his findings still largely support the theory forwarded by this project that presidents' ability to and incentives for adhering to constitutional constraints on their power is primarily conditioned by the level of party competition present within their domestic political systems. The exact causal mechanisms at play will determine in each particular situation if lower or higher levels of party competition will lead to increased adherence to constraints on executive power. Thus, a future avenue for research in this vein could include constructing a typology of constraints on presidential power that categorizes checks on presidential authority in terms of whether high levels of party competition lead to higher or lower adherence to each constraint. The results from such a study would further our understanding of the nature of executive power in new democracies where the longstanding informal power dynamics co-exist alongside of nascent formal political institutions.

As mentioned in the introduction, the finding that the level of electoral competition in young democracies with neo-patrimonial practices shapes both the adoption and enforcement of formal constraints on executive tenure across sub-Saharan Africa has broad implications for the

⁵³⁰ See table 6.2 in VonDoepp p. 157. Electoral uncertainty and government interference with the judiciary tend to co-vary in the five country cases VonDoepp analyzes- low uncertainty leads to low interference (in Namibia) whereas high uncertainty leads to high interference (in Malawi). Zambia is a bit more mixed with moderate uncertainty leading to high interference under Chiluba and high uncertainty leading to moderate interference under Mwanawasa.

study of comparative politics more generally. On a broad level, this research project informs our evolving understanding two main areas of political development: the sources of institutional choice, strength and change in liberalizing countries and the changing nature of executive power in sub-Saharan Africa.

Institutional Choice, Strength and Change

Many recent studies on the workings of political institutions have raised questions about a central premise of mainstream institutionalism, namely that there exists a relatively tight coupling between formal rules and political behavior such that formal rules can be mapped more or less directly onto political outcomes.⁵³¹ Yet, even if we accept that formal rules do not always effectively guide politicians' expectations and behavior, we continue to know very little about exactly when and under what conditions formal institutions *do* drive outcomes versus when informal rules and practices are more likely to shape the conduct of political actors.

The results from the African cases surveyed here suggest that, in at least the case of term limits adherence, formal institutions become effective conduits of political behavior when there is a genuine need by actors to accomplish what the term limit rule is intended to do: regulate political competition. Many African governments adopted term limits in order regulate the uncertainty that was introduced into the electoral arena by the advent multi-party elections in the early 1990s. However, simply having multi-party elections in a polity *does not* in and of itself create a high level of party competition. Indeed, many African ruling parties have been able to maintain their dominance despite the advent of multi-party elections (including SWAPO in Namibia, CCM in Tanzania, CDP in Burkina Faso and others). In most of these cases, the

⁵³¹ See Levitsky and Murillo, 2009; Helmke and Levitsky, 2006

formal limits on executive tenure have been circumvented because no opposition party poses a credible threat of replacement to the ruling regime, thus negating the need for a formal rule that regulates turn-over of the executive office. Formal term limit rules are only able to consistently and effectively prompt presidents to step down at the conclusion of their final term in office in states in which at least one opposition party is perceived as having enough popular support to realistically challenge the ruling party for control of the presidency and/or the parliament in the foreseeable future. In such cases, term limits are enforced by parliamentarians and followed by presidents due to a desire by all actors to keep their opponents from benefiting from incumbency advantage in the future.

The finding that term limit laws are only effective when the original reason for their implementation remains in force suggests that scholars need to pay careful attention to the reasons for the original formation of formal institutions in order to understand variation in the their strength of parchment rules in later time periods. This finding also echoes the growing consensus in comparative politics that some formal rules, especially in nascent democracies, may not be as “sticky” as path-dependent accounts of institutions portray them to be. Instead of seeing institutions as rarely altered (except by exogenous shock) once established because the choice of one institutional design “canalizes future development”⁵³² due to the vested interests it creates and the corresponding high cost of enacting changes,⁵³³ more recent scholarship has argued that institutions are themselves just as likely to be shaped by instrumental political actors to their own political advantage as they are to be structures that shape the behavior of actors.⁵³⁴

⁵³² Krasner, Stephen D. 1984. “Approaches to the State: Alternative Conceptions and Historical Dynamics,” *Comparative Politics*, Vol. 16(2): 240.

⁵³³ Elster, Jon, Claus Offe and Ulrich Preuss, with Frank Boenker, Ulrike Goetting, and Friedbert Rueb. 1998. *Institutional Design in Post-Communist Societies*. Cambridge: Cambridge University Press. p. 29

⁵³⁴ Thelen. Kathleen and Sven Steinmo. 1992. “Historical Institutionalism in Comparative Politics,” in *Structuring Politics: Historical Institutionalism in Comparative Analysis*, ed. Steinmo, Thelen and Frank Longstreth.

In these instances, the design and enforcement of political institutions can be seen as being endogenous to the political realities and power balances on the ground.

Executive Power in Sub-Saharan Africa

The study of African politics in the post-colonial era up until the period of liberalization that began in the 1990s widely focused on the subject of executive power. It was the era of the “big men”: long-serving presidents-for-life who dominated politics in their countries and were virtually unchecked by other political actors or institutions. Seminal works like Jackson and Rosenberg’s *Personal Rule in Africa* (1982) and others explored the intricacies of personalistic rule that was pervasive across the continent, observing that most African states had become regimes where:

persons take precedence over rules, where the officeholder is not effectively bound by his office and is able to change its authority and powers to suit his own personal or political needs. In such a system of personal rule, the rulers ... take precedence over the formal rules of the political game [and] the rules do not effectively regulate political behavior... To put this in old-fashioned comparative government terms, the state is a government of men and not of laws.⁵³⁵

However, following the political liberalization in the early 1990s, there have been few attempts to assess if and to what degree the democratizing reforms and institutional rules enacted during that period have been able to transform the political environment in African states. Does the rule of law now takes precedence over personalistic power, or are African executives still able to exercise unconstrained discretion? Understanding how the conduct of executive power across sub-Saharan Africa has and/or has not been altered by liberal-democratic reforms thus remains an important question in analyses of contemporary African politics.

Cambridge: Cambridge University Press. p. 12.
⁵³⁵ Jackson and Rosenberg, 1982, p. 10

The findings from this study demonstrate that the new democratic rules enacted in the 1990s have made constraining executive power *possible* but not *guaranteed*. They provide a framework in which both mechanisms of horizontal and vertical accountability can operate in order to check executive power. Yet the effective operation of these mechanisms can be hampered by many factors, among them a lack of resources, knowledge or willingness by other actors to challenge presidents who attempt to circumvent legal mandates. In the case of executive term limit enforcement, ruling party members of parliament were not willing to use their power as a body to vote “no” on proposals to lift term limits unless they felt that doing so was necessary in order to constrain potential opposition and would also improve their chances of retaining their own legislative seat in the medium-term. In the case of other limits on executive power, such as rules that delineate the parameters of the executive’s role in the budget process, factors such as the lack of professional staff to operate legislative budget offices and a lack of resources by civil society groups to monitor and oversee the budget process contributes to the continued gross misappropriation of state funds by many African presidents.⁵³⁶ Thus, parchment institutions in and of themselves cannot and do not constrain executive power- rather, both a countervailing reason to enforce the rules *and* functional tools of enforcement must be present in order to actualize the potential power of written rules. Where these tools are accessible and the political will exists to employ them, African presidents have found their discretion greatly reduced compared to the free reign earlier generations of presidents enjoyed over the state apparatus. However, when and where these tools are difficult to utilize or actors do not possess the resolve to apply them consistently, sub-Saharan executives have been able to retain

⁵³⁶ McKie, Kristin and Nicolas van de Walle. 2010. “Towards an Accountable Budget Process in Sub Saharan Africa: Problems and Prospects.” *Social Research*, Vol. 77(4): 1281-1310

significant *de facto* powers even when the new rules have been designed to limit their *de jure* authority.

Yet, this leaves open the question of how much influence presidents have in shaping the larger political environment within which countervailing forces and tools of enforcement develop. For example, in the case of executive term limit enforcement, this question is especially relevant with regards to factors that impact the latitude of opposition forces to operate. The cause of the variation in the strength of political opposition (i.e. whether it is due to the ability of the executive/ruling party to restrict opposition freedoms, due to limitations- financial, ideological, capacity- of the opposition parties themselves, or a combination thereof) is a prior question that this research project illuminates. Therefore, additional research into the dynamics that create the level of political competition within a given state would help to further ground our understanding of when and how formal institutions are adopted and enforced in nascent democracies.

APPENDIX A

Text of executive term limit clauses in sub-Saharan African constitutions, by date adopted

Country	Date term limit clause adopted	Text of term limit clause
Sierra Leone	June 1978	Article 25: The President shall assume office on the day his predecessor ceases to hold office or on the day following his election under Section 23 of this Constitution (whichever is the later) and shall... continue in office for a period of seven years and until the person elected President at the next following Presidential Election assumes office, provided that no one President shall hold office for more than two consecutive terms.
Nigeria	Oct 1979	Article 128: A person shall not be qualified for election to the office of President if... (b) he has been elected to such office at any 2 previous elections.
Tanzania	1984	Article 40: (1) Subject to the other provisions of this Article, any person who holds office as President shall be eligible for re-election to that office. (2) No person shall be elected more than twice to hold the office of the President.
Liberia	1986	Article 50: The president shall be elected by universal adult suffrage of registered voters in the Republic and shall hold office for a term of six years commencing at noon on the third working Monday in January of the year immediately following the elections. No person shall serve as President for more than two terms.
Namibia	Feb 1990	Article 29: (1)(a) The President's term of office shall be five (5) years unless he or she dies or resigns before the expiry of the said term or is removed from office... (3) A person shall hold office as President for not more than two terms.
Sao Tome & Principe	Sept 1990	Article 79: 1. The President is elected for five years... 3. Not being eligible for reelection for a third term running, either during the five years immediately following the end of second term row.
Mozambique	Nov 1990	Article 147: 3. The term of the office of the President of the Republic shall be five years. 4. The President of the Republic may be re-elected only once. 5. A President of the Republic who has been elected on two consecutive occasions may be a candidate for further presidential elections only five years after the end of his last term of office.
Benin	Dec 1990	Article 42: Le Président de la République est élu au suffrage universel direct pour un mandat de cinq ans, renouvelable une seule fois
Guinea	Dec 1990	Article 24: Le Président de la République est élu au suffrage universel direct. La durée de son mandat est de cinq ans, renouvelable une seule fois
Gabon	Mar 1991	Article 9: Le Président de la République est élu pour cinq ans au suffrage universel direct. Il est rééligible une fois.
Rwanda	May 1991	Article 40: 3) The President of the Republic shall be elected for a five year mandate. (4) The President may be reelected. However, he may not exercise more than two successive mandates.

Zambia	Aug 1991	Article 35: (1) Subject to clause (2) and (4) every President shall hold office for a period of five years. (2) After the commencement of this Constitution no person who holds or has held office as President for two terms of five years each, shall be eligible for reelection to that office. (3) For the purposes of clause (2) the period of two terms of five years each shall be computed from the commencement of this Constitution.
Senegal	Sep 1991	Article 27: La durée du mandat du Président de la République est de sept ans. Le mandat est renouvelable une seule fois (2001 constitution; 1991 amendement not available).
Burkina Faso	Jun 1991	Article 37: Le Président du Faso est élu pour cinq ans au suffrage universel direct, égal et secret. Il est rééligible une fois.
Mali	Jan 1992	Article 30: Le Président de la République est élu pour cinq ans au suffrage universel direct et au scrutin majoritaire à deux tours. Il n'est rééligible qu'une seule fois.
Congo-Brazzaville	Mar 1992	Article 68: Le président de la République est élu pour cinq ans au suffrage universel direct. Il est rééligible une seule fois.
Burundi	Mar 1992	Article 61: Le président de la République est élu au suffrage universel direct pour un mandat de cinq ans renouvelable une fois. Nul ne peut exercer plus de deux mandats présidentiels.
Ghana	Apr 1992	Article 66: (1) A person elected as President shall, subject to clause (3) of this article, hold office for a term of four years beginning from the date on which he is sworn in as President. (2) A person shall not be elected to hold office as President of Ghana for more than two terms.
Djibouti	Sep 1992	Article 23: Le Président de la République est élu pour six ans au suffrage universel direct et au scrutin majoritaire à deux tours. Il n'est rééligible qu'une seule fois.
Angola	Aug 1992	Article 59: The President of the Republic shall serve a five-year term of office which shall end on the swearing in of the new elected President. The President of the Republic may be re-elected for two consecutive or discontinuous terms of office.
Madagascar	Aug 1992	Article 45: Le président de la République est élu au suffrage universel direct pour un mandat de cinq ans ; il n'est rééligible qu'une seule fois.
Kenya	Aug 1992	Article 9: 1. The President shall hold office for a term of five years beginning from the date on which he is sworn in as President. 2. No person shall be elected to hold office as President for more than two
Cape Verde	Sept 1992	Article 146: 1. The President of the Republic shall not present his candidature for a third mandate in the five years immediately following the end of his second consecutive mandate.
Togo	Oct 1992	Article 59: Le Président de la République est élu au suffrage universel direct pour un mandat de cinq ans renouvelable une seule fois. En aucun cas, nul ne peut exercer plus de deux mandats
Seychelles	Jun 1993	Article 52: (1) Sous réserve des autres dispositions du présent article, la personne élue à la présidence de la République occupe sa charge pour un mandat de cinq ans qui commence :... (2) La charge présidentielle ne peut comporter plus de trois mandats sous le régime de la présente constitution.
Malawi	May 1994	Article 83: (1) The President and the Vice-President shall hold office for five years. (2) The President or Vice-President may serve a maximum of two consecutive terms.

CAR	Jan 1995	Article 23: Le Président de la République est élu au suffrage universel, direct et secret pour un mandat de 6 ans, renouvelable une fois.
Uganda	Sep 1995	Article 105: 1) A person elected President under this Constitution shall, subject to clause (3) of this article, hold office for a term of five years.(2) A person shall not be elected under this Constitution to hold office as President for more than two terms as prescribed by this article.
Cameroon	Jan 1996	Article 6: (1) Le Président de la République est élu au suffrage universel direct, égal et secret, à la majorité des suffrages exprimés. (2) Le Président de la République est élu pour un mandat de sept (7) ans renouvelable une fois.
Chad	Mar 1996	Article 61: Le Président de la République est élu pour un mandat de cinq ans au suffrage universel direct. Il est rééligible une seule fois.
Niger	Aug 1999	Article 36: Le Président de la République est élu pour cinq (5) ans au suffrage universel libre, direct, égal et secret. Il est rééligible une seule fois.
Cote d'Ivoire	Jul 2000	Article 35: Le Président de la République est élu pour cinq ans au suffrage universel direct. Il n'est rééligible qu'une fois.
Congo-Kinshasa	May 2005	Article 70: Le Président de la République est élu au suffrage universel direct pour un mandat de cinq ans renouvelable une seule fois.
Mauritania	Jun 2006	Article 28: The President of the Republic can be reelected once.

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